

NOMINATION OF WILLIAM E. COLBY

HEARING
BEFORE THE
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
NOMINATION OF WILLIAM E. COLBY TO BE DIRECTOR
OF CENTRAL INTELLIGENCE

JULY 2, 20, AND 25, 1973

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THE HOUSE OF REPRESENTATIVES

IN SENATE, FEBRUARY 20, 1962

MEMORANDUM

FOR THE RECORD

FOR THE COMMITTEE ON ARMED SERVICES

RE: HONORABLE WILLIAM L. SCOTT

SENATOR FROM VIRGINIA

CONFIDENTIAL

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(II)



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(III)

NOMINATION OF WILLIAM E. COLBY

MONDAY, JULY 2, 1973

**U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.**

The committee met, pursuant to notice, at 10 a.m., in room 318, Richard B. Russell Senate Office Building, Hon. Stuart Symington (acting chairman).

Present: Senator Symington (presiding).

Also present: T. Edward Braswell, Jr., chief counsel and staff director; John T. Ticer, chief clerk; R. James Woolsey, general counsel; John A. Goldsmith, Robert Q. Old, and Francis J. Sullivan, professional staff members; Nancy J. Bearg, research assistant; Dorothy Pastis, clerical assistant; and Katherine Nelson, assistant to Senator Symington.

Senator SYMINGTON: The hearing will come to order.

We regret members are absent because of the recess. Inasmuch as Director Schlesinger has now become Secretary of Defense we thought it advisable to have Mr. Colby here at the earliest opportunity to consider his confirmation as the new Director of Central Intelligence.

[Nomination reference and report follow:]

NOMINATION REFERENCE AND REPORT

**IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
May 24, 1973.**

Ordered, That the following nomination be referred to the Committee on Armed Services:

William Egan Colby, of Maryland, to be Director of Central Intelligence, vice James R. Schlesinger.

July 26, 1973.

Reported by Mr. Jackson with the recommendation that the nomination be *confirmed*, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(1)

Senator SYMINGTON. Mr. Colby has had a long career in Government service, chiefly in intelligence and related matters. He served for a number of years in Vietnam on various assignments in one of which he held the rank of Ambassador.

The Chair would emphasize that today's hearings will not only be an examination of Mr. Colby's qualifications and background, but will also review a number of policies relating to the Central Intelligence Agency itself.

There has been so much discussion about the structure and functioning of the Agency, Mr. Colby, and because of your long connection with it, we are going to take this opportunity to try to get a better understanding for ourselves and for the people as to just what the CIA is and what it is supposed to do.

**STATEMENT OF WILLIAM EGAN COLBY, NOMINEE TO BE DIRECTOR
OF CENTRAL INTELLIGENCE**

Mr. COLBY. I welcome that, Mr. Chairman.

Senator SYMINGTON. We believe this the appropriate time to examine in some depth a number of issues that have been the subject of consistent recent public attention with respect to the operations of the Central Intelligence Agency.

Mr. Colby, do you have any preliminary statement you would like to make?

Mr. COLBY. No, Mr. Chairman. I welcome the chance to explain to you to the committee, and to the Senate, what my qualifications, I hope, are, for this important challenge ahead of me, and I thought the most useful thing is to answer the questions in your mind, sir.

Senator SYMINGTON. Very well.

As you know, the Senate Democratic Caucus has adopted a policy with respect to every nomination which requires that every nominee be asked, do we have your commitment to respond to requests to appear and testify before any duly-constituted committee of the Senate.

Would you respond?

Mr. COLBY. I will, Mr. Chairman.

Senator SYMINGTON. You will what?

Mr. COLBY. I will testify.

Senator SYMINGTON. Thank you. We will provide for the record at this point a biographical sketch of your long and effective record as a Government servant.

[Mr. Colby's biographical sketch follows:]

WILLIAM EGAN COLBY

Mr. William E. Colby was born in St. Paul, Minnesota, in 1920. The son of an Army officer, his early life was spent in various posts, including a three-year period in Tientsin, China.

In 1940 he was graduated from Princeton University and in 1941 joined the United States Army, serving in the Parachute Field Artillery. When the Office of Strategic Services put out a call for French speakers in 1943, Mr. Colby volunteered and in 1944 was parachuted behind enemy lines in north central France to work with a resistance unit. Shortly before the end of the war in 1945, he led a team dropped in northern Norway to destroy a rail line used for transporting German reinforcements.

Following the war, Mr. Colby obtained his law degree from Columbia Law School and joined a New York law firm headed by William J. Donovan, former head of OSS. He is a member of the New York State and U.S. Supreme Court bars.

In 1949 Mr. Colby accepted his first U.S. Government position as an attorney for the National Labor Relations Board in Washington. In 1951 he joined the staff of the American Embassy in Stockholm and from 1953 to 1958 served in the American Embassy in Rome, Italy.

Mr. Colby became First Secretary of the American Embassy in Saigon in 1959, leaving in 1962 for an assignment as Chief of the Far East Division of the Central Intelligence Agency in Washington, D.C.

In March 1968 Mr. Colby joined the Agency for International Development and was posted to Saigon to assume the post of Assistant Chief of Staff and in November 1968 of Deputy to the Commander of MACV for the CORDS program of support to the Government of Vietnam's pacification campaign, with the personal rank of Ambassador. He was reassigned to the Department of State on 30 June 1971.

On 10 January 1972 Mr. Colby was appointed Executive Director-Comptroller of the Central Intelligence Agency. Mr. Colby was appointed Deputy Director for Operations effective 3 March 1973.

Mr. Colby is married to the former Barbara Heinzen. They have four children and reside in Bethesda.

Senator SYMINGTON. In the paper Sunday was an article "London Paper Asserts CIA Engineered the Coup in Greece."

I will read the first sentence of that article in the New York Times on Sunday, July 1.

The Observer said today that it has found evidence that the Central Intelligence Agency engineered the 1967 military coup in Greece and is using secret knowledge of Premier George Papadopoulos "war-time collaboration with the Nazis", to maintain control of the regime.

Is there any justification for these assertions?

Mr. COLBY. I had that researched, Mr. Chairman. The CIA did not engineer the coup in Greece in 1967. Secondly, I think we are not in possession of that kind of information about Mr. Papadopoulos that is alleged there. And we did not train him in this country as alleged there.

Senator SYMINGTON. At any time has Mr. Papadopoulos been an agent for the CIA?

Mr. COLBY. He has not been an agent. He has been an official of the Greek Government at various times, and in those periods from time to time we worked with him in his official capacity.

Senator SYMINGTON. Did we pay him any money at any time?

Mr. COLBY. I cannot answer that now, Mr. Chairman. I just do not know. I can say that we did not pay him personally.

[The following statement was provided for the record:]

The CIA never paid Mr. Papadopoulos any money.

The only association the Agency ever had with Papadopoulos of any kind was in his capacity as an officer of the Greek Intelligence Service, with which we have maintained a liaison relationship since the Greek civil war in the late 1940's.

[The article from the New York Times follows:]

[The New York Times, Sunday, July 1, 1973]

LONDON PAPER ASSERTS C.I.A. ENGINEERED THE COUP IN GREECE

LONDON, Sunday, July 1—The Observer said today that it has found evidence that the Central Intelligence Agency engineered the 1967 military coup in Greece and is using secret knowledge of Premier George Papadopoulos's "wartime collaboration with the Nazis," to maintain control of the regime.

The Sunday newspaper said that at the Athens headquarters of the joint United States Military Aid Assistance Group, Mr. Papadopoulos is known among senior staff members as "the first C.I.A. agent to become premier of a European country."

Mr. Papadopoulos has now proclaimed himself provisional President and declared Greece a republic.

The Observer's writer, Charles Foley, quoted an unidentified American military adviser in Athens as having said: "George gives good value because there are documents in Washington he wouldn't like let out."

The British paper said that the Greek secret service, built up after the 1945-49 civil war, was formed by the United States, and that, according to Andreas Papandreu, minister of state in charge of intelligence in the Government brought down by the coup, it "was in reality a financial and administrative appendage of the C.I.A."

SENT TO THE U.S.

Mr. Papadopoulos, a former colonel, was among hundreds of secret-service agents sent to the United States for training, the Observer said. His anti-Communist credentials were stringently investigated at the time.

The newspaper said that a comrade of Gen. George Grivas, wartime leader of an anti-Communist guerrilla organization, had confirmed reports that Mr. Papadopoulos had served as a captain in a security battalion organized by the Nazis to hold down partisans during the war.

The current Government stand portraying Communism as Greece's only enemy and minimizing the German occupation "clearly reflects the dictator's concern at the danger that the gap in his official biography may some day be filled in," The Observer said.

It said that the composition of the cabal of officers who carried out the 1967 coup suggested C.I.A. involvement. Four of the five officers, it said, were closely connected with United States forces or intelligence, and the fifth was brought in because of the armored units he commanded.

The newspaper also suggested that American influence at the time of the coup prevented the carrying out of a contingency plan, drawn up by the North Atlantic Treaty Organization for use if Greece faced war or revolution.

Senator SYMINGTON. In a hearing of this character, if you would like to defer the question for an executive hearing, we will be glad to do so.

Mr. COLBY. I am prepared to provide every detail in executive session, as you know, Mr. Chairman.

Senator SYMINGTON. This article was a flatout assertion. I thought we should know.

Mr. COLBY. I can equally say that the CIA did not engineer the coup in Greece in 1967.

Senator SYMINGTON. There is a book somebody has given me called "My War with the CIA", the memoirs of Prince Norodom Sihanouk as related to Wilfred Burchett, Australian journalist. Have you read the book?

Mr. COLBY. I have not had a chance to read the book, Mr. Chairman.

Senator SYMINGTON. I have not read it all myself, only some of it.

Mr. COLBY. I know a little about our relationship with Prince Sihanouk over the years because I have been involved in Southeast Asia. And I know the thrust of his allegations that the CIA was trying to unseat him at various times. First, I can say that we did not have anything to do with his ouster in 1970. That was conducted within the Cambodian Government at that time.

In reference to an earlier incident, we did not conduct an attempted coup against him, although we did have certain information as to the people who were so doing.

Senator SYMINGTON. At any time have we worked in conjunction with Lon Nol or Sirik Matak?

Mr. COLBY. As officials of their Government we have, of course, been in contact with various people, but we have not conducted any private relationship with Prime Minister Lon Nol.

Senator SYMINGTON. They were never paid employees of the Central Intelligence Agency?

Mr. COLBY. No.

Senator SYMINGTON. You are familiar with the controversy over the Phoenix program in Vietnam, which we understand you supervised as Deputy U.S. Commander in Vietnam for Civil Operations and Rural Development Support from 1968 to 1971. There have been allegations, in effect, that the Phoenix program was an "assassination" program. What are the facts?

Mr. COLBY. Mr. Chairman, I have testified in extenso on this subject before the Senate Foreign Relations Committee in February 1970, before the Senate Committee on the Judiciary, the Subcommittee on Refugees in early 1971, and before the House Committee on Government Operations in July 1971. In each of those hearings I have made the statement, and I was under oath and am prepared to repeat it, if necessary, that the Phoenix program was not a program of assassination. The Phoenix program was a part of the overall pacification program which was designed to strengthen the Government of South Vietnam and its people against the assault, led against them by the North Vietnamese through a program of subversion, guerrilla warfare, and military operations. The pacification program dealt essentially with the first two of those, subversion and guerrilla warfare.

The Phoenix program was developed in order to bring some order into the fight between the subversion of the North Vietnamese and the Vietcong, and the Government. During the mid-1960's in South Vietnam, there was a great deal of anarchy and confusion. Now, a large number of activities went on then that are quite frankly, reprehensible.

The Phoenix program was designed in late 1967 and essentially began to operate in mid-1968 with a view to bringing some order into the Government side, if not the Communist side, of this problem. The Communists, as you know, were conducting a campaign of terrorism against the people of South Vietnam, against local officials, and against National Government officials. In the process the command and control structure of this terrorist campaign was run by an apparatus of the Communist Party of North Vietnam, the Lao Dong Party, and in 1961 there was formed the People's Revolutionary Party of South Vietnam as a front to pretend a separation between those two parties. This apparatus was the controlling body and staff of the overall program. In order to struggle against this apparatus it was necessary to bring together the various intelligence, police forces, and local security forces to begin to identify who the people were in this apparatus, because they were sophisticated, clandestine operators. They used aliases, used cutouts, and used a variety of intelligence procedures in order to conceal themselves.

In the course of the Phoenix program we looked at the situation and it was apparent that too many people in very minor contact with the rebellion were being captured or otherwise affected by the counteraction against this apparatus. The Phoenix program was designed to make this a regular program so that the attention could be given to the main people that were involved in the command structure on the Communist side.

For example, a form of dossier was established by which the evidence could be carefully collected on the names of the people who

were involved. A procedure was set up that three independent reports had to be collected in order for a man to be named as a member of the apparatus by the Government. The Phoenix program set up categories of these different people on the Communist side. These were in the three categories of A, B, C. The A category were the leaders, and the members of the People's Revolutionary Party; the B category were the cadre, the ones who helped to make it operate. The C category were other people who were somehow involved in supporting the apparatus and the campaign.

The three categories were set up in order to distinguish the important enemy individuals from the ones who were really not so important. For example, the Phoenix program was addressed only to the A and B categories, and said to the people who were in the police and intelligence services that the C category was not part of the Phoenix program because it was desired to leave those people as much alone as possible and focus the effort against the leaders on the other side.

There were a variety of other programs instituted over the course of time to improve the legal basis and structure under which the program operated. The Province Security Committee which had the authority to detain individuals for security purposes used to be made up primarily of police and intelligence officials.

Senator SYMINGTON. I do not mean to interrupt you but was this part of the Komer plan for pacification, or part of the Vung Tau school operation?

Mr. COLBY. There was a continuum, Mr. Chairman, which Mr. Komer started and which I then continued.

Mr. Komer left, as you know, in November 1968, so most of the developments of the Phoenix program were my own after that. But a variety of other legal procedures and practical procedures were instituted in the Phoenix program. We tried to improve the accuracy of the information and, secondly, to improve the treatment given to the individuals captured. The thrust of the program was to capture people who were on these lists or to get them to defect or rally to the Government. But in the situation, in the middle of a war like that, a lot of people were killed in the process of the incidents and the attacks. I think some 87 percent, as I remember, of the people killed under the program who were named members of the apparatus were killed by military forces, and only 12 percent were killed by the police and local forces of that nature.

Senator SYMINGTON. In 1970 you testified before the Senate Foreign Relations Committee that the Phoenix program was designed initially to eliminate the Vietcong infrastructure by capturing its members, "rallying" them—that is, persuading them to defect—or by eliminating them. How many, roughly, would you estimate were eliminated?

Mr. COLBY. Well, the elimination was all three categories because the word "eliminate" referred to the entire program against the apparatus.

Senator SYMINGTON. Kill them?

Mr. COLBY. We said kill, the figure we used was people who were killed. There was no euphemism applied to it at all. The overall word "neutralize" was applied to the apparatus whether it was neutralized by the individuals being captured, rallying or being killed.

[See also p. 149.]

Senator SYMINGTON. And you were operating this program under instructions from higher authority during the course of the war, is that correct?

Mr. COLBY. It was part of the war, and I was operating it—to answer your question directly, Mr. Chairman, I believe that the figures in mid-1971 that were testified to at the time were that some 28,000 had been captured, some 20,000 had been killed, and some 17,000 had actually rallied by that time. Obviously, the program has been going on since then, and those figures are larger today.

Senator SYMINGTON. There were statements in some congressional hearings that South Vietnamese could be stigmatized as Vietcong infrastructures by their enemies without hard evidence of such infrastructure affiliation. Were you satisfied with the quality of the intelligence on which these Vietcong infrastructure determinations were made?

Mr. COLBY. I was not, and we made considerable efforts to improve it and to improve the procedure so that only better evidence would be used in the legal proceedings against these people. I would not pretend to you that we were always successful, and there were certainly abuses in that situation.

Senator SYMINGTON. What about charges made that South Vietnamese authorities abused the Phoenix program—that suspected VCI simply disappeared while under interrogation, and so forth?

Mr. COLBY. Well, I think the figures there about the number of captured and the number rallied indicates that very large numbers were interrogated and did contribute to the intelligence base. Again, certainly, abuses took place but I think in the record we also included the directive issued by MACV which, frankly, I drafted, which called upon any American who was in the presence of something which did not meet the laws of war, first, not to participate, of course. Second, to indicate his displeasure and his rejection of it to the people involved and, third, to report it to higher authority. I did receive some reports of this kind of misbehavior, and I took these up with the Government and I am very happy to say in those cases I saw action taken against the individual doing it.

Senator SYMINGTON. According to earlier testimony, a suspected VC could be imprisoned without trial under the “an tri” law, and held for 2 years. What do you know about this?

Mr. COLBY. That is correct, Mr. Chairman. Like many other countries Vietnam had a procedure for detention as a threat to national security, and a suspected VC could be held under that provision or he could be passed to the regular courts for sentencing.

That particular provision permitted his detention for up to 2 years, but that period could be extended, and in a number of cases was. One of the purposes of the Phoenix program was to distinguish the length of time of detention of the three categories of individuals I mentioned, the A, B, and C. The A category, the senior leaders, were to be held for 2 years. The B category, the cadre, were to be held between 1 and 2 years. The C category hopefully, were to be let go or at the most held, in the absence of other circumstances, to 1 year.

Senator SYMINGTON. Did such absence of due process, in your opinion, result in the protracted detention of innocent people?

Mr. COLBY. There were certainly people who were detained improperly. I think the Phoenix program's objective was to reduce that to the minimum possible.

Senator SYMINGTON. Under such circumstances, could the Phoenix program be used by unscrupulous individuals to put away their political enemies—without any hard evidence of subversive intent?

Mr. COLBY. It became more and more difficult for that to happen, Mr. Chairman.

Early in the mid-1960's I am sure that happened quite generally. But after the Phoenix program and the regularization of the procedures it was less likely. For instance, under the regular procedures any case would have to be referred to the village chief of the home of the individual concerned to get his view of the popular attitude toward the man.

Second, he was required to be given a copy of the charges against him, which had not been the case prior to that time. He was required to have a hearing and to actually appear. This was only instituted in 1971, but part of the program was to make improvements of this nature in the procedures.

Senator SYMINGTON. Some critics of the Phoenix program have charged that, as an intelligence program, it was both clumsy and ineffective. Would you comment on those assertions?

Mr. COLBY. I do not think the enemy thought that. I think the enemy thought that it was a major threat to the style of war they were trying to run. Certainly it was bureaucratic and it had a lot of problems in it, but I think it made a contribution to the struggle against the Communist effort to overthrow the government there.

Senator SYMINGTON. Now the Director of the Central Intelligence Agency reports directly to the President of the United States. That is correct, is it not?

Mr. COLBY. He does, Mr. Chairman.

Senator SYMINGTON. Including the Phoenix program, did you, or do you know of any action taken by the Agency that was taken without the approval or against the wishes of any President?

Mr. COLBY. I do not know of any such.

Senator SYMINGTON. On November 5, 1971, President Nixon directed a reorganization of the intelligence community. We are interested in your concept of, and how you intend to implement your authority under that reorganization; also what is the role of the White House staff and the National Security Council staff; and what they should be with respect to the functioning of your Agency.

For example, this directive establishes a National Security Council Intelligence Committee. Could you tell this committee what you believe the role of that National Security Council?

Mr. COLBY. Yes, Mr. Chairman. I believe the purpose of that committee is to give general guidance as to what kinds of intelligence are needed and what kinds of intelligence, perhaps, are really not all that useful to the customer agencies, if you will, the Department of State, the Department of Defense, and the White House itself, of course. In other words, to give guidance as to the interests of the customers of intelligence as to what things they are concerned about, what things they think perhaps we do too much of, and so forth. I would propose to work very closely with that committee and to try to define, as the

Agency has, the major subjects of intelligence interest so we can reduce activities which are perhaps marginal.

Senator SYMINGTON. Who is the chairman of that National Security Council Intelligence Committee?

Mr. COLBY. The chairman of that committee is Dr. Kissinger, and the members are the Undersecretary of State, the chairman of the Joint Chiefs of Staff, the Deputy Secretary of Defense, the Attorney General, and the Director of Central Intelligence.

Senator SYMINGTON. If you report directly to the President of the United States, and Dr. Kissinger is the chairman of the National Security Council Intelligence Committee, do you take orders from Dr. Kissinger or do you take orders from the President?

Mr. COLBY. As I understand it, Mr. Chairman, Dr. Kissinger is a staff officer for the President and he then indicates subjects that he thinks will be of interest to the President but in terms of a direct order the authority has to be the President alone, and I am prepared to insist on that in any case in which it appears dubious—

Senator SYMINGTON. I do not want to labor it but we want to know how it is handled. We have been having increasing problems finding out just where and what is the authority of these various agencies. If Dr. Kissinger came in and said, it is the wish of the President that you do such and such, would you consider that an order?

Mr. COLBY. It would depend on what such and such was, Mr. Chairman. If it was to write an estimate of developments in China or something I would probably go ahead and write the report. If it were something questionable, beyond the proper charter of the Agency, I would object and insist on talking to the President about it.

Senator SYMINGTON. You report to the President; have you discussed your appointment with him?

Mr. COLBY. I have only met him once since my appointment, and I did not have much chance to discuss it.

Senator SYMINGTON. Have you gone into any detail as to where authority lies or does not lie?

Mr. COLBY. No, we have not, Mr. Chairman.

Senator SYMINGTON. Some things worry me with respect to the functioning of your Agency. You have already stated you would come up here and report to us and give us the facts.

Mr. COLBY. I will indeed, Mr. Chairman.

Senator SYMINGTON. Are there any other members, besides the ones you mentioned, of this National Security Council Intelligence Committee?

Mr. COLBY. Those are the only members, sir.

Senator SYMINGTON. Are there any working groups that support this National Security Council Intelligence Committee?

Mr. COLBY. There are officials who help work on the problem, yes.

Senator SYMINGTON. Who do they work for?

Mr. COLBY. Of course, there is a National Security Council staff itself that works for Dr. Kissinger.

Senator SYMINGTON. The national security staff is an advisory body to the President under the law.

Mr. COLBY. Right.

Senator SYMINGTON. The working group of the National Security Council Intelligence Committee, who do they report to?

Mr. COLBY. To the chairman of the committee, to Dr. Kissinger, in other words.

Senator SYMINGTON. Do you feel you are hemmed in, in any way, in functioning on this job?

Mr. COLBY. I do not, sir. I have had a talk with Dr. Kissinger about it and I have had the fullest assurances of support and help in this job.

Senator SYMINGTON. If there is any development which changes your mind, will you feel free to come to this committee and so state?

Mr. COLBY. If I cannot resolve it in any other way, I will.

Senator SYMINGTON. These questions are asked in your interest.

Mr. COLBY. I appreciate it.

Senator SYMINGTON. It has been my experience you should never give a man responsibility without authority and vice versa. You never have had, in the Central Intelligence Agency, the kind of public relations developed by the late J. Edgar Hoover in the Federal Bureau of Investigation. To the best of our knowledge, this is the first time there has been a CIA hearing of this character. Everybody realizes, the way the world is today, we need an agency like the Central Intelligence Agency. Some of us have been quite surprised, however, that additional assignments have been given to an intelligence agency. Now is the time to get these matters clarified.

You are satisfied based on what you know about this to date, correct?

Mr. COLBY. I am satisfied, Mr. Chairman, that I have the amount of authority I need to do the job that I will be asked to do.

Senator SYMINGTON. What is the role of the Net Assessment Group?

Mr. COLBY. The Net Assessment Group is a staff which works with the National Security Council to come to conclusions as to the relative strength of ourselves and certain other countries that might be a threat to the security of the United States.

Senator SYMINGTON. Who is the chairman of that group?

Mr. COLBY. I do not—I am not sure right now. I will supply that, if I may, Mr. Chairman.

Senator SYMINGTON. Is there anyone here who can get that information. That must be a matter of general knowledge, is it not, Mr. Maury? Do you know who is the chairman of the Net Assessment Group?

Mr. MAURY. No, sir.

[The following information was provided for the record:]

The chairman of the Net Assessment Group is Andrew W. Marshall.

Senator SYMINGTON. Do you know if they have any working group that supports their efforts?

Mr. COLBY. The Net Assessment Group is an interagency group, a group which consists of individuals from different intelligence agencies, and the other departments of the Government who have worked out a common understanding of the relative balance between ourselves and other nations. There will be a number of officials who will participate in this.

Senator SYMINGTON. What is the role of the Net Assessment Group?

Mr. COLBY. To try to determine whether some other country has a particular advantage over us or vice versa in some particular situation. The reason for that, Mr. Chairman, is that the intelligence community is focused on foreign intelligence and we do not focus on the strength of the United States. This is a matter for the National Se-

curity Council, the Department of Defense and so forth and, consequently, if you are going to draw a net balance as to the situation between ourselves and another country, you need the intelligence contributed on one side and the American side of the equation contributed on the other. The intelligence community and the CIA would contribute the foreign intelligence to that net assessment.

Senator SYMINGTON. What is the function of the Intelligence Resources Advisory Committee?

Mr. COLBY. The Intelligence Resources Advisory Committee is an advisory group to the Director of Central Intelligence to assist him in an examination of the resources devoted to intelligence throughout the Government and to assist him in making a recommendation to the President once a year for a budget for the entire foreign intelligence activity of the U.S. Government.

Senator SYMINGTON. Who is the chairman of that board?

Mr. COLBY. The Director of Central Intelligence would be the chairman of that.

Senator SYMINGTON. You are the chairman?

Mr. COLBY. That is right.

Senator SYMINGTON. I am glad it is planned for you to be the chairman of some advisory committee.

Mr. COLBY. I am going to be the chairman of quite a few things, Mr. Chairman.

Senator SYMINGTON. Who will be on this working group with you?

Mr. COLBY. On the Advisory Committee on Resources you have the Office of Management and Budget, the Assistant Secretary of Defense for Intelligence and the Central Intelligence Agency, and the Department of State.

Senator SYMINGTON. Under this machinery, who will have control over the budgets of the intelligence agencies, including the CIA? If you, for example, recommended a reduction in DIA personnel, do you think you could make it stick under this committee structure?

Mr. COLBY. Well, the actual authority for the appropriation concerned is in the hands of that department head, whoever it is, to whom that appropriation was given. The responsibilities of the director under this instruction are to look at how those resources are allocated even though it is not his direct responsibility to control those funds: As you can see, there is a chance for a difference of opinion, as to how many people should be used on a certain topic or how many resources should be allocated to it.

In that situation the Director is required to submit his view to the President for resolution after listening to this advisory committee, but there is no vote in the advisory committee. It is the director's view as to what the allocation of resources should be even though some of those resources, as a matter of fact, the great majority of them, are not his direct responsibility.

Senator SYMINGTON. Do you believe that any of the intelligence committees of which you are not chairman will be able to influence the substance of intelligence estimates?

Mr. COLBY. They will certainly help us choose the topics. They will not affect the assessment made because the procedures are that the intelligence estimates submitted to the National Security Council are the Director's appreciation of what is going on. That is a very personal

and single responsibility. And I propose to exert every effort I can, and I plan to be successful or not continue the effort, to make those objective and straightforward assessments.

Senator SYMINGTON. More specifically, Mr. Colby, I read a speech by a General Graham who recently joined the Central Intelligence Agency, and then called the Director and asked, "What is going on", because, in effect, the speech the general made stated the Defense Department should appraise the military posture of the possible enemy, when it came to weapons systems, their operations, the number of troops, and so forth. In the years I have been on the Central Intelligence Agency Subcommittee, I have never seen an estimate by any of the services which did not estimate the possible enemy's capacity higher than the estimate of the Central Intelligence Agency. With one conspicuous exception, the Central Intelligence Agency's were always lower, and ultimately found always to be more on target.

Senator SYMINGTON. Does General Graham work for you?

Mr. COLBY. He does.

Senator SYMINGTON. Have you straightened out his thinking on this matter?

Mr. COLBY. Well, it is very clear to us as to how our relationship on military intelligence will work.

Senator Symington. You say "to us." Does that include him?

Mr. COLBY. Yes. I talked to him about this in some depth.

Senator SYMINGTON. Several years ago, as chairman of a subcommittee of the Foreign Relations Committee, I had two able staffmen, Walter Pincus and Roland Paul. They went around the world and reported back there was a great deal of duplication in our hundreds of large bases and thousands of small bases all over the world. They said the most duplication they found was in the intelligence field. I have been around myself and corroborate that finding.

In that speech this General said all intelligence, in effect, should be concentrated in the Defense Department. I do not think the American taxpayer who already has mounting tax problems, would support that type of conclusion. There is no use belaboring it; but would you agree now, if you have problems along these lines you would report them back to this committee?

Mr. COLBY. I do not anticipate having any problems.

Senator SYMINGTON. I know you do not so anticipate. Nobody anticipates a car wreck until they have it; but if you do get into that kind of trouble, will you so report back to this committee?

Mr. COLBY. I will report back to the committee anything I cannot handle, Mr. Chairman.

I would say that on that subject of military intelligence, I have worked in a military headquarters and I think I know some of the strengths and some of the weaknesses of such an apparatus. I believe that we can use the military intelligence agencies for a number of the things that are necessary to accomplish in the intelligence business.

However, as I said before, when the Director gives his assessment of what is going on to the President it has to be his personal assessment, and he has to have a conviction that it is accurate, and he has to have, and I will insist on, every liberty to conduct independent research, review, whatever, in order to assure myself of the accuracy of what he says.

Senator SYMINGTON. In the years I have been on this committee we have had incorrect bomber gaps and missile gaps, and have built against them; later found they were wrong. We would have built more if it had not been for independent CIA estimates.

Today we are winding down the war, but asking for many millions of dollars more because of what the possible enemy has. I think it important we have a man in Government, totally independent, reporting to the President, who also has an obligation under the Constitution to tell us what his opinion is without being forced to present something he does not believe correct.

Mr. COLBY. I take that obligation very, very sincerely, Mr. Chairman. I think that one of the contributions that intelligence can make to a peacetime world is to bring more accuracy to our preparations against possible threats to national security so that we do not operate only against what a possible enemy is capable of but rather that we know precisely what he is planning and doing to the extent we can find that out.

Senator SYMINGTON. I am interested in your independence. I spent some years in the Pentagon and have spent some years in the Senate and think the Central Intelligence Agency important the way the world is today; but its importance is almost completely nullified if its best judgment can be subordinated to that of somebody else who is not in the intelligence business.

Mr. COLBY. I think the structure is such that the Director has to give you his very personal opinion and I assure you that it is going to be a straightforward one.

Senator SYMINGTON. Will intelligence estimates, as previously, be made through the U.S. Intelligence Board?

Mr. COLBY. Yes; they will be coordinated with the board but again, that is not a vote, it is a consultation, and the estimate will be the result of the Director's view and assessment. He is required under the rules to indicate a substantial dissent by any member of the U.S. Intelligence Board to an estimate in order to give the customer the benefit of the fact that there is disagreement on some important point. And that procedure will be continued.

Senator SYMINGTON. You would agree, would you not, that a sound economy with a sound dollar is just as important to true national security as the latest weapons system?

Mr. COLBY. I very strongly believe that, Mr. Chairman. I think the security of the United States depends upon a lot more than just guns. It depends upon our economy and a lot of other things.

Senator SYMINGTON. And you would also agree that there is no position in Government more important than yours from the standpoint of weighing what is necessary for security and what is not, based on what is the position of the possible enemy.

Mr. COLBY. Let me say I think this is a very important position, Mr. Chairman. I will not engage in comparatives.

Senator SYMINGTON. As we understand it, there has been a committee over the years one which went by different names—The 303 Committee; the 40 Committee; et cetera—which approves certain operations of the CIA. Is this correct, and, if so, who is on this committee at the present time, and what is its function?

Mr. COLBY. Mr. Chairman, the National Security Act of 1947 says that the Agency will do various things, and then in the last sub-

paragraph it says that the Agency will conduct, perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

Now, that particular provision of law is the authority under which a lot of the Agency's activities are conducted.

The National Security Council has set up, as we discussed a little while ago, the Intelligence Committee and it has also set up some other committees. I believe on this matter since I am talking about the National Security Council, that I would prefer to respond fully to you in detail in executive session, because I think some of these matters are still classified, Mr. Chairman.

Senator SYMINGTON. Very well. What is the name of the latest committee of this character?

Mr. COLBY. Forty Committee.

Senator SYMINGTON. Who is the chairman?

Mr. COLBY. Well, again, I would prefer to go into executive session on the description of the Forty Committee, Mr. Chairman.

Senator SYMINGTON. As to who is the chairman, you would prefer an executive session?

Mr. COLBY. The chairman, all right, Mr. Chairman, Dr. Kissinger is the chairman as the assistant to the President for national security affairs.

Senator SYMINGTON. Do any of the committees we have discussed so far have any role in evaluating, coordinating, or otherwise dealing with domestic intelligence, or intelligence which is targeted at U.S. citizens?

Mr. COLBY. No, the function of the Agency is foreign intelligence, Mr. Chairman, and that is its function. In the course of our foreign intelligence activities obviously, we have to employ people, we have to investigate the people we employ. We deal with a number of Americans who help us in a variety of ways. In that respect we have information about those citizens but we do not target them for intelligence operations.

Senator SYMINGTON. And you will issue instructions to your people that under no circumstances are they to participate in any domestic efforts?

Mr. COLBY. That has been a very strong principle in the Agency. I have every intention of reinforcing that principle and insisting on it very vigorously.

Senator SYMINGTON. We understand that Dr. Schlesinger brought to the CIA two military officers, Major General Allen and Major General Graham, to serve on his staff. Do you intend to use these two officers on your staff?

Mr. COLBY. At the moment I do, Mr. Chairman. I obviously have not developed my entire staffing plan at this point. But at the moment I do plan to do so because I think that they are working on the intelligence community staff which is the staff that helps the Director in his community responsibilities as distinct from his Agency responsibilities.

Senator SYMINGTON. What will their function be?

Mr. COLBY. General Allen is the head of that community staff, and again, since most of the community resources are in the Defense Department, it is perhaps appropriate that a military officer be a part of

that. His deputy is a civilian at the moment and it is my intention that that will still be the case.

Senator SYMINGTON. That is General Allen?

Mr. COLBY. Yes—General Graham is in charge of a program of product review as to what kinds of intelligence products we have and how good they are, and so forth, and again, since he has familiarity with the sweep of the intelligence community effort from his prior experience, I would propose to continue him for the time being in that role.

Senator SYMINGTON. This is important. We have been hearing about a steady reduction of the gross national product total that goes to defense, but a recent report made by a group of able and experienced men would appear to blow that concept out of the water. Instead of being 31 percent of the budget it is 57-plus percent, \$98.1 billion. That includes such things as atomic warheads for missiles, over \$12 billion for veterans and so forth, all part of defense; so in addition to the some \$80 billion 600 million, being asked for you can add another \$18 billion or so to the true defense costs. This is one reason why it would appear important we get these estimates right.

Do you believe, in general, that the military services, the Defense Intelligence Agency, should have a more dominating role in the intelligence estimating process than in the past?

Mr. COLBY. I do not believe they should have a dominating role. I believe they should have a contributory role.

Senator SYMINGTON. Your former chief has just become Secretary of Defense. He is able and persuasive. Naturally he is going to be interested in the Joint Chiefs position. Do you think you can hold up?

Mr. COLBY. I think so, Mr. Chairman. As a matter of fact, my former chief, as you know, was associated with the drafting of the November 1971 letter and the decisions that the President made about strengthening the hands of the Director of Central Intelligence and I believe he has a very strong intellectual commitment in this regard. I propose to work with him very closely in that role but, at the same time, I propose to take my own responsibilities very firmly.

Senator SYMINGTON. Once you are over in that building it is pretty hard to have independent judgment, as we all know from past experience, but I will say that Dr. Schlesinger, when he was Chairman of the Atomic Energy Commission, he did more in less time to clarify the overall position of that Agency, which has been operating under totally unnecessary excess secrecy, at a cost to the taxpayers of many billions of dollars.

Mr. COLBY. Well, he had a very short but, I think, an exceptionally effective tenure in the Central Intelligence Agency.

Senator SYMINGTON. What he started out to do is being interpreted now. It is a more healthy situation, in my opinion.

Mr. COLBY. Yes, and I propose to continue many of those programs.

Senator SYMINGTON. I was talking about the AEC.

Mr. COLBY. Yes.

Senator SYMINGTON. What primary problems of efficiency and cost in the intelligence community do you believe should take first priority in your attention?

Mr. COLBY. Well, we have a very serious problem, Mr. Chairman, which is developing—which is the total amount of dollars required for intelligence, and the increasing percentage of that which is necessary

to pay the personnel involved, and these curves have been going up for a long time and if you project the curves very far you end up with all people and no program and I do not think that is a satisfactory outcome. Therefore, we are going to have to figure out ways to conduct the important intelligence activities at a lower price than we have in the past.

Senator SYMINGTON. Do you believe we tend to collect more intelligence than we can efficiently process and disseminate to the appropriate Government authorities. Do you believe we sometimes overwhelm ourselves with data we cannot analyze?

Mr. COLBY. I think in any large-scale activity, Mr. Chairman, you will find corners of it that cannot bear close scrutiny but I think in general, the intelligence effort of the United States is focused on the main things. There has been a very substantial reduction of the total intelligence effort over the past several years partly reflecting the draw-down from Southeast Asia but also reflecting other very substantial reductions around the world. Some of this is a result of better technology, and some of it is a result of just selective pruning of things that may have been nice to have but cannot meet the test of these times.

Senator SYMINGTON. It is sometimes said that it is valuable in intelligence work to have more than one organization analyze a problem and make an estimate. We can all see why some competition in analysis and estimation would be valuable. Do you believe it is also necessary, however, to have duplication in the collection of intelligence?

Mr. COLBY. In certain situations it may be, Mr. Chairman. In certain situations one particular source for collection may not be reliable at a particular time of attention or it may not be all that believable and, consequently, you might have to develop a redundant system, as the scientists would say. But certainly, I think this is a value decision. If intelligence is satisfactory through one channel it should not be duplicated. We cannot afford it in this day and time.

Senator SYMINGTON. Within the next 6 months, will you make a report on this and submit it to this committee, with respect to collection, after you have had a good look at it from the top?

Mr. COLBY. I am in the course of developing a presentation on the budget of the entire intelligence community to the appropriations committees of the Senate and of the House. I assure you I will look at this very, very severely, plus the fact that I also have to submit my recommendations to the President on the fiscal year 1975 budget later on.

Senator SYMINGTON. We would appreciate reviewing what you give to the appropriations committees. No one has more respect for that committee than we do, but this is the Legislative Committee involved if we are going to make any changes in the law; and some for clarification after Watergate, would appear desirable.

Mr. COLBY. I certainly will report fully to this committee, Mr. Chairman.

Senator SYMINGTON. Turning now from the management of the intelligence community itself to the management of the CIA, the committee understands that Dr. Schlesinger initiated a vigorous program of personnel reductions in the CIA. How far has this gone, and what are your future plans in this regard? You can answer that briefly now and supplement it.

Mr. COLBY. Yes.

We have determined that quite a substantial number of individuals were excess to our needs and our total strength has dropped in the neighborhood of 7 or 8 percent. I think, in the past 4 months. As to the future, as I indicated, the problem of the cost of personnel and the cost of operations now are going to require, I believe, some additional pruning of activities that may not be able to stand the competitive situation for resources that we have and, consequently, it is possible that other reductions will ensue.

Senator SYMINGTON. You will continue this program of involuntary retirements, particularly CIA personnel with overseas assignments?

Mr. COLBY. I do intend to continue a program of identifying the individuals who stand lowest on the scale of performance among their fellows and arranging a situation where they can be helped to leave Government service early rather than having them wait around too long.

Senator SYMINGTON. Several Members of Congress have called for the overall budget of the intelligence community to be made public, so the American people can see at least the general amount which is spent for intelligence functions. In past years, and despite the increasing desire of the American people to know what is going on in their Government, the furnishing of intelligence information has been further restricted.

Do you see any reason why overall budget information, or even a breakdown of the intelligence budget into its major categories, would endanger national security if it were made public?

Mr. COLBY. I would propose to leave that question, Mr. Chairman, in the hands of the Congress to decide. I think there are considerations pro and con on all sides of that question. But I have found that the Congress is at least as responsible on this as our friends elsewhere in Government, and we have, as you know, shared with the Congress some very sensitive material which has been successfully protected by the Congress.

On the other hand, there are situations in which an American intelligence service will have to be much more exposed than the intelligence services of other countries. We are not going to run the kind of intelligence service that other countries run. We are going to run one in the American society and the American constitutional structure, and I can see that there may be a requirement to expose to the American people a great deal more than might be convenient from the narrow intelligence point of view.

Senator SYMINGTON. What would be your views regarding the requirement for an annual authorization of the budget of the intelligence community prior to appropriation, as is required for a portion of the Department of Defense budget?

Mr. COLBY. That would be up to the Congress again, Mr. Chairman. I think that in that circumstance we would explain our plans to the appropriate oversight committees in the same way we do to the appropriations committees. We would give a full description of what we have in mind to do.

Senator SYMINGTON. I do not want to belabor this. After some years on the Foreign Relations Committee and the Armed Services Committee, where I have been a member of the CIA Subcommittee, I came to realize that many concepts of policy were being made by foreign relations without accurate information. Under the so-called Kennedy let-

ter, the Central Intelligence Agency man in the country in question reports to the Ambassador, but when he comes back here, CIA is light years away from any review by State of its functioning. So it was only a question of time before we would run into some of the problems we have now run into.

It is one of the reasons the CIA has had such recent unfortunate publicity: for example, this recent Chilean episode. Sometimes secrecy may be justified; other times, to my certain knowledge, it could never be justified.

There is information, intelligence, which, of course, cannot be made public in the interest of national security: but people believe excessive secrecy can give rise to unwarranted suspicion that intelligence agencies are engaged in sinister activities. That is what they are saying. Would you favor a policy of more open disclosure regarding intelligence activities than we have had in the past?

Mr. COLBY. I think it is probably essential in America today, Mr. Chairman, and I would favor a greater degree of exposure of what we are doing. We have already had some matters which we do expose. Some of the exposure that we have quite frankly, gives us problems abroad in our relationships with other intelligence services and even in our relationships with individuals who secretly agree to work with us, who are somewhat frightened at the prospect of their names coming into the public and things happening to them as a result. But I think that there are ways in which the intelligence community and the CIA in particular, can reassure the appropriate committees and also the Senate as a whole and also the people as a whole as to the activities we are engaged in. I think we are going to have to draw that line. It is going to be a difficult one in many situations but it is obvious that again we have to run an American intelligence service.

Senator SYMINGTON. What would be your position regarding the provision of written intelligence reports to the Congress, similar to those reports which are provided to high level officials in the executive branch?

Mr. COLBY. I plan to look into this very precisely, Mr. Chairman, and do what I can in this regard. As you know, the Agency has always come up and given executive session briefings to various committees on the substance of what is happening in the world, and the Director's assessment as to what he thinks is going on. I would propose to continue that activity and look very, very seriously at whether there are improvements that could be made by which the appropriate committees, Congressmen, Senators, could be given the actual documents where they are important.

Senator SYMINGTON. We understand some limitations on, and directives to the intelligence community, are included in classified documents called National Security Council Intelligence Directives, NSCID's. Would you describe in general the subject matter of these directives; and, if you believe they should remain classified, would you tell the committee why you think so?

Mr. COLBY. These directives are the application of the provision of the law that I cited, Mr. Chairman, in such matters as the National Security Council may from time to time direct. They include some general directives which describe the functions of the different members of the intelligence community and there is certain sensitive information in those. Those are National Security Council documents,

Mr. Chairman, and I do not have the authority for the declassification since they originate with the National Security Council.

Senator SYMINGTON. Would you, as Director of Central Intelligence, have the authority to declassify National Security Council intelligence directives, or to provide them, classified or unclassified, to the Congress?

Mr. COLBY. No, I do not believe I do. Those belong to the National Security Council, Mr. Chairman.

Senator SYMINGTON. Would you report to this committee who would have this authority, what the reasons are for this policy regarding these documents?

Mr. COLBY. I will let you know.

Senator SYMINGTON. Thank you.

Now we turn to the National Security Act of 1947, which, for reasons that are not important, I was involved in at that time, as a member of the executive branch.

The 1947 act directs the Agency to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time, direct.

Mr. COLBY. Yes.

Senator SYMINGTON. Is this the provision of the 1947 act which gives the CIA the authority, under the NSC's direction, to engage in military-type operations abroad, such as the war in Laos?

Mr. COLBY. Yes, Mr. Chairman, that is the legal, statutory authority because many of the activities of that nature do relate to intelligence since intelligence techniques are an essential part of running a covert operation of that nature.

Senator SYMINGTON. Mr. Colby, you and I have had discussions when you were in Saigon in the past. Are you saying that the war conducted in Laos under the direction of the Ambassador, with the full support of the CIA, primarily was an intelligence matter?

Mr. COLBY. No, no, not primarily, Mr. Chairman. I would say that the initiation of CIA's activity in Laos was a matter which did require the use of intelligence techniques because it was felt to be important at that time that the United States not be officially involved in that activity, and this was done over many years, as you well know, in an unofficial way.

Senator SYMINGTON. Yes, and that is one of the principal reasons why the CIA has had a lot of unfortunate, in many cases unmerited, adverse publicity.

Mr. COLBY. Obviously, Mr. Chairman, no activity of this nature is done without the proper reviews, instructions and direction of the National Security Council, each such—

Senator SYMINGTON. The National Security Council is an advisory board to the President. So what you are saying is no activity of this kind is done without instructions from the President?

Mr. COLBY. Correct.

Senator SYMINGTON. What you really can call the CIA then, is "the King's men" or "the President's army."

Mr. COLBY. I do not think that is the case, Mr. Chairman. I think the CIA is an intelligence agency, which has the capability of using intelligence techniques as directed by the President and by the Congress—by the National Security Council.

Senator SYMINGTON. We worry about that Laotian operation which we have watched over a period of years, have been there often, have sent staff people out. Let us hope that in the future, inasmuch as the CIA is fundamentally an intelligence agency, not an agency designed to conduct a war, you would try to keep out of this type and character of operation. It has done nothing to improve the stature of the CIA. You would agree with that.

Mr. COLBY. Mr. Chairman, I think the name of the Agency is intelligence, and that is its primary responsibility and focus. Obviously, the Agency will follow national policy but I think it is clear that under the present direction of U.S. policy it is very unlikely that we would be involved in such an activity.

Senator SYMINGTON. This President did not start it so it is not necessarily a criticism of this administration. But when you justify a war of this character on the grounds it is "related to intelligence", you are stretching your assigned role and running into potential trouble.

Mr. COLBY. I do not think it was a war when it began, Mr. Chairman. I think we were giving some assistance to the people in Laos who were resisting the North Vietnamese coming into their country.

Senator SYMINGTON. In any case by August 15 we will be out, let us hope.

Do not large-scale operations, such as this unending war in Laos, go considerably beyond what Congress intended when it provided for "other functions and duties related to intelligence"?

Mr. COLBY. I think it undoubtedly did, and I think also that as a practical matter a covert operation cannot be a very big one because it stops being covert when it gets too big. I think this was the lesson of the Bay of Pigs, among other things.

Senator SYMINGTON. If you operate this Agency in accordance with the philosophy you are now expressing, we may have a new day coming up.

Mr. COLBY. Well, I will try to keep it out of the kind of exposure that some of these larger activities got us into.

Senator SYMINGTON. Do you believe all CIA overseas operations should support its basic objective of intelligence collection and analysis?

In other words, if Congress would wish to limit CIA overseas operations to those which clearly support intelligence collection, would it be necessary to redraft the 1947 act?

Mr. COLBY. I think the interpretation of the act to date is that it is a bit beyond pure intelligence operations and analysis. I think that it would be appropriate to leave the act as it is in that respect because I think that the Agency might be fettered in some respect which would be of importance to the United States by some kind of a broader proscription than is perhaps necessary. I think the basic point is that the Agency overseas is going to follow U.S. policy. And that you have a tool in the Agency to use in support of U.S. policy if it is so desired. I think it might be appropriate to limit the Agency's function to foreign intelligence and that in every case in the act in which the word intelligence appears in the responsibilities of the Agency that the word foreign could be inserted.

Senator SYMINGTON. I know you know that much of the CIA operation in Laos had as much to do with intelligence as the production of carpets in the United States. It was the operation of a war conducted, at least in some cases, by the State Department and the Central Intelligence Agency to cover up what we were actually doing. That is what worries the American people, they find something going on for years, killing a lot of people, about which they had no idea.

Turning now to domestic activities the 1947 act provides: "The Agency shall have no police, subpoena, law enforcement powers, or internal security functions." I would ask you about several recent events, some connected with the Watergate case, involving the CIA. The purpose of these questions is not to elicit your opinion about decisions made by your predecessors or other CIA officials, right or wrong, good or bad; rather, to clarify the meaning of these statutory restrictions on domestic activity as expressed in the 1947 act.

Do you believe the prohibition against the CIA having police or law enforcement powers, or internal security functions, would prohibit the preparation of a psychological profile on a U.S. citizen?

Mr. COLBY. Not in every case, Mr. Chairman, because, for instance, we prepare a psychological profile on our applicants, on our applicants for employment, and I think we consequently have a legitimate function for some of these. But I think I agree with the thrust of your question, which is with reference to Mr. Ellsberg. It is not our function to use this capability in that case.

Senator SYMINGTON. That was my next question. Would it prohibit the preparation of a psychological profile on a U.S. citizen who was under indictment for crime, as was the case with Mr. Daniel Ellsberg in August 1971?

Mr. COLBY. Let us say that I do not intend to do this, Mr. Chairman.

Senator SYMINGTON. If anybody asks you to do it would you come back here and protest?

Mr. COLBY. If I cannot handle it any other way.

Senator SYMINGTON. If you cannot handle it any other way?

Mr. COLBY. Right.

Senator SYMINGTON. Thank you.

Would these provisions of the 1947 act prohibit the Agency from providing a camera, tape recorder, disguises and alias documentation to a White House employee if the Agency was informed that that employee was to use these materials to conduct an "interview," as was apparently the case with Mr. E. Howard Hunt, in 1971?

Mr. COLBY. This is a very complicated question, Mr. Chairman.

Senator SYMINGTON. Simplify it for us.

Mr. COLBY. For example, the Secret Service Act calls for the full collaboration of other agencies of the Government in the protection of the individuals designated for protection by that service. The question as to whether we should give the Secret Service certain assistance comes up. I propose to draw the distinction between—

Senator SYMINGTON. This was not Secret Service. The White House called the Deputy Director of the CIA requesting all of this apparatus be given Mr. Hunt.

Mr. COLBY. Right. I was using this as an illustration of the complexity of the problem, Mr. Chairman. In other words, I find it very

difficult to say here that we will never give any other agency of the U.S. Government help which they might use in their responsibilities because, for instance, we provide a considerable amount of intelligence to the FBI, and there are other ways in which we help the other agencies of the Government.

The fact is, however, that I think in that particular case a mistake was made and it will not be made again.

Senator SYMINGTON. A good answer.

Would the provisions of the 1947 act prohibit the use of a so-called safe house to provide such materials to a White House employee?

Mr. COLBY. I think the same answer applies to that question, Mr. Chairman.

Senator SYMINGTON. Would these provisions of the 1947 act prohibit the developing of a film for such a White House employee?

Mr. COLBY. Mr. Chairman, that depends. I mean, if one of the White House employees has a film of some particular thing or even needs a safe house for some perfectly legitimate purpose I really see no problem in the Agency helping him with that particular function. I think it is really a matter of what he is doing and whether the Agency participates by helping him in some improper activity, and I assure you that the Agency is not going to participate in any improper activity, although I can envisage a situation in which it would be appropriate for the Agency to help not Mr. Howard Hunt but a White House official to meet somebody without coming to public notice.

Senator SYMINGTON. In the CIA's interest, it is proper to state that when the Deputy Director, General Cushman, found out the nature and degree of this operation he notified the White House staff member who had requested it that he would no longer approve it.

Mr. COLBY. Yes.

Senator SYMINGTON. So I would not think you would have any problem with this question.

Mr. COLBY. I think that is exactly it. When it began to be indicated that the Agency would begin to participate in the activity in the United States in that regard the Agency withdrew from that participation.

Senator SYMINGTON. Would these provisions of the 1947 act require the Agency to insure materials loaned to a White House employee for one function were not used for another illegal function?

Mr. COLBY. Let us say I think we are going to be very careful with some of our unique equipment, Mr. Chairman, and we are not going to let it out without control.

Senator SYMINGTON. Is there any practical way the CIA can monitor the use of materials it provides to various employees in Government, including those in the White House?

Mr. COLBY. It depends on the equipment. With certain equipment we can, and frequently do, insist on knowing precisely what is done with that equipment, and that it is used in a legitimate purpose by the Agency in question.

However, I think that it is possible in most cases for us to do this, and we propose to do it.

Senator SYMINGTON. Is there any agreement between the FBI and the CIA regarding what is to occur if one agency, in the course of its operations, comes across the operations of the other?

Mr. COLBY. There is an agreement between the two agencies which was drawn up some years ago. I have not had a chance to review this

in detail but I propose to now that there is new leadership in both agencies.

Senator SYMINGTON. When you review it, will you submit to this committee your conclusions?

Mr. COLBY. I would be glad to.

Senator SYMINGTON. Thank you.

Does either the CIA or the FBI have the authority to tell the other not to continue with, or conduct, certain investigations; or, is there merely an agreement to notify the other agency in case of a potential conflict?

Mr. COLBY. I think the latter is correct. I do not think the CIA has the authority to direct the FBI to suspend an investigation. We do not. We do have the ability to explain to them that some activity has another explanation which they might not have known and as a practice we always do this.

Senator SYMINGTON. Nor would they have a right to do so to you?

Mr. COLBY. They do not have the authority to give me an order to suspend any activity, except, I suppose, in the area of domestic law if they told me I was doing something improper, they might have authority to direct me not to do it or arrest me.

[The following additional statement was provided for the record:]

We have an agreement that CIA's foreign intelligence operations in the United States will be coordinated with the FBI and terminated if the FBI determines them prejudicial to their activities.

Senator SYMINGTON. They would appeal to the President through the Attorney General, and you would appeal to the President direct, correct?

Mr. COLBY. I would go to the President, right.

Senator SYMINGTON. Aside from protecting the physical security of CIA property, such as the headquarters in Langley, Va., and conducting security investigations of its own employees, does the CIA need to have authority to provide direct or indirect support to any domestic law enforcement agency?

Mr. COLBY. Yes, Mr. Chairman, we do in terms of support to, for example, the FBI. If we learn that a certain agent of another country is coming here, I think it is important we be allowed to pass that information to the FBI and not be prohibited from doing so.

Senator SYMINGTON. Does the authority of the CIA to collect intelligence outside the United States extend to collecting intelligence on U.S. citizens abroad who do not appear to be involved with the activities of foreign governments or foreign institutions?

Mr. COLBY. No; it does not.

Senator SYMINGTON. Your answer is "No?"

Mr. COLBY. My answer is, "No," who were not involved with foreign institutions.

Senator SYMINGTON. Do you subscribe to Ambassador Helms statement in his published address of April 1971 that "We do not target on U.S. citizens?"

Mr. COLBY. I do subscribe to that. We target on foreign intelligence, Mr. Chairman, foreign intelligence and foreign intelligence services. There is occasionally some incidental mention of American citizens in this regard. That kind of information, if it indicates something improper, is turned over by us to the FBI. It is not handled by our Agency.

Senator SYMINGTON. Now, the so-called Watergate Committee, the one chaired by Senator Ervin, has recently released a set of documents dealing with the plan during the summer of 1970, apparently approved by the President, to establish an Inter-Agency Committee on Intelligence, which would include the Director of the CIA, and would deal with domestic intelligence operations. Do you believe that the prohibition in the 1947 act against the Agency having any police or law enforcement powers, or any internal security functions, would prohibit the Director of Central Intelligence from participating in the evaluation of intelligence on domestic groups?

Mr. COLBY. No; I do not, Mr. Chairman. I think that in that respect the Agency has an obligation to provide to the Government the results of its foreign intelligence activities and collection and if this can contribute to the Government's knowledge of some problem in the United States that this can properly be passed by the Agency to an interagency group but the Agency would not itself be engaged in those functions or exert those powers. It would merely pass the results of its activities abroad to that interagency effort and to the appropriate authorities of the Government.

Senator SYMINGTON. Well, it is my understanding that when the Central Intelligence Agency was created the most difficult problems that they had in writing the law were the objections of the Director of the Federal Bureau of Investigation because of his apprehensions about interference in domestic activities. You have no intention of doing anything of that character?

Mr. COLBY. Absolutely not, Mr. Chairman. I repeat that I read the word "foreign" before the word "intelligence" in the authority under this act.

Senator SYMINGTON. Based on some papers we received we have the right, I think, to believe that Attorney General Mitchell did not know of this so-called plan presented by Mr. Charles Tom Huston, a lawyer in the White House at that time. Perhaps Mr. Hoover in reporting to his boss, the Attorney General, requested that the plan--the request, be put in writing. If he did that, Mr. Mitchell, being a lawyer, unquestionably would have felt that higher authority was requesting Mr. Hoover to break the law. It may well be that is what happened and the reason the plan, after a few days, was abandoned. In any case, the people that I have discussed this matter with, who are far greater authorities on the Constitution than I am, feel that it was in effect a request to circumvent the Constitution, violate the Constitution. I am not asking for your opinion on that fact or lack of accuracy but I would hope that you would be very careful about this in the future because now everybody will be considering this from the standpoint of your operations. As I understand it, you do not intend to participate in any way in any domestic intelligence, is that correct?

Mr. COLBY. I do not, Mr. Chairman.

Senator SYMINGTON. Would this prevent you from helping to make policy regarding the collection of intelligence on domestic groups?

Mr. COLBY. I believe it would, yes, Mr. Chairman. I do not see that as within my responsibilities at all.

Senator SYMINGTON. Would the 1947 act prohibit the CIA from collecting, or providing the support necessary for collecting, intelligence within the United States on domestic groups?

Mr. COLBY. I believe that is the same question, essentially.

Senator SYMINGTON. Yes.

Mr. COLBY. And it would prohibit me from doing that.

Senator SYMINGTON. Would it clarify your responsibilities, Mr. Colby, and the responsibilities of the CIA under the 1947 act, if it were made clearer that your responsibilities extended only to foreign intelligence—namely, intelligence about or related to foreign governments, groups, or individuals?

Mr. COLBY. I would certainly have no objection to that. If it would relieve any concern that anybody feels about CIA, I would fully recommend that that be done. I think the easiest way for it is just to use the words "foreign intelligence."

Senator SYMINGTON. Ambassador Helms testified before the Senate Foreign Relations Committee that the requirement for the Director of Central Intelligence to protect intelligence sources and methods has sometimes led to the existence of a "gray area," using his words, of CIA responsibilities by implication verging on the requirement to be involved in domestic activities.

Do you know of any way to clarify or correct this situation?

Mr. COLBY. My interpretation of that particular provision, Mr. Chairman, is that it gives me a charge but does not give me authority. It gives me the job of identifying any problem of protecting sources and methods, but in the event I identify one it gives me the responsibility to go to the appropriate authorities with that information and it does not give me any authority to act on my own. So I really see less of a gray area in that regard. I believe that there is really no authority under that act that can be used. If, on the other hand, there is some concern over the matter I would have no problem because I do not view it as giving me any authority.

Senator SYMINGTON. Do you believe that some other Government official should have the overall responsibility to protect intelligence sources and methods in order to make it clear, for example, that it is not the CIA's responsibility to get involved in domestic law enforcement functions?

Mr. COLBY. I think, in a sense, Mr. Chairman, we all have the responsibility of protecting national security information, and that most intelligence sources and methods fall into that category.

Senator SYMINGTON. Well, if I understand, if there is a Government official that should have such responsibility, it should be yourself?

Mr. COLBY. For the intelligence field, I think it is myself no question about it.

Senator SYMINGTON. Right.

In general, what do you consider to be the proper scope of your agency activities within the United States?

Mr. COLBY. Mr. Chairman, we obviously have to run a headquarters here; we have to recruit people for our staffs, and so forth; we have to conduct investigations on those people; we have to protect our own intelligence sources and methods within the Agency; we have to contract with a large number of American firms for the various kinds of equipment that we might have need for abroad. We also, I believe quite properly, can collect foreign intelligence in the United States, including requesting American citizens to share with their Government certain information they may know about foreign situations.

We have a service that does this, and I am happy to say, a very large number of American citizens have given us some very important information. We do not pay for that information. We can protect their proprietary interest and even protect their names if necessary, if they would rather not be exposed as the source of that information.

We also, I believe, have certain support activities that we must conduct in the United States in order to conduct foreign intelligence operations abroad. Certain structures are necessary in this country to give our people abroad perhaps a reason for operating abroad in some respects so that they can appear not as CIA employees but as representatives of some other entity. Lastly, I think that there are a number of activities in the United States where foreign intelligence can be collected from foreigners, and as long as this is foreign intelligence, I think it quite proper that we do so. I can certainly go into more detail on this in executive session any time you would like, Mr. Chairman, but I reiterate that the focus should and must be foreign intelligence only, and that all the other activities are only supportive of that major function.

Senator SYMINGTON. If you should receive an order in the future which appears on its face to be illegal, what would you do?

Mr. CORAY. I would object to it and, if necessary I am quite prepared to leave this responsibility if it came to that.

Senator SYMINGTON. I did not hear you.

Mr. CORAY. And I am quite prepared to leave this job if it comes to that.

Senator SYMINGTON. Do you believe that CIA officials should refrain from making policy, or explicitly making recommendations about policy, and, if so, what steps can you take to insure that the CIA maintains its role as solely an intelligence organization?

Mr. CORAY. I do indeed believe that the CIA's role is to try to call what is happening abroad very accurately and precisely, and incidentally, to show two or three different interpretations if these legitimately exist. But the action that should be taken about that is a larger question dealing with the interest and policies of the United States and the various capabilities of the United States. These are not within the responsibilities of the intelligence community and, therefore, I think that the intelligence community should stick to its own business and not get into recommending what should be done.

Senator SYMINGTON. What would be your position regarding CIA collaboration with private American corporations overseas?

Mr. COLBY. Well, I think that in many respects there are perfectly legitimate ways in which we can collaborate with American corporations overseas in terms of the exchange of information and in some situations corporations overseas can help the intelligence activity and mission.

However, I think your reference is rather to the situation that developed with ITT in Chile and I think that our position there is that we are not going to be a conduit for corporate policies and that we will not allow ourselves to be controlled by some corporation.

Senator SYMINGTON. There would appear no reason, from the standpoint of logic, that prevents you utilizing American citizens in a foreign country to the best of your ability to obtain information. You would agree, would you not?

Mr. COLBY. Right.

Senator SYMINGTON. On the other hand, you would not want that corporation to take advantage of your request by in turn obtaining special favors from the Government?

Mr. COLBY. Right. I think we have only one source of our authority and that is the statute, and the President, and that we should make decisions on what we do overseas based on the best interests of the United States as articulated by the Congress and the President, and not by any individual company.

Senator SYMINGTON. As a member of the Subcommittee on Multi-National Corporations of the Foreign Relations Committee, I was impressed with the obvious lack of coordination with other committees and I think much of that trouble could have been avoided if there had been closer cooperation between the various interested committees.

I have some questions here, Mr. Colby, that Senator Hughes would like you to answer for the record. Many of them cover ground we have already discussed this morning.

Mr. COLBY. I will be glad to provide those answers, Mr. Chairman.

Senator HUGHES. Can you tell us publicly the budget totals for the CIA and for the rest of the intelligence community? If not, how are we to judge whether these amounts are appropriate in view of the intelligence product and the competing claims for Government resources?

Mr. COLBY. The budget totals for the Central Intelligence Agency and the members of the intelligence community have traditionally been maintained on a classified basis and revealed only in executive session. I defer to the appropriate congressional authorities for any change in this procedure. Budget requests are reviewed in detail in the Agency's annual budget hearings with the Appropriations Committees of the Senate and the House of Representatives.

Senator HUGHES. In order for the responsible committees of Congress to do their work on national security matters in a better informed way, would you accept legislation requiring the CIA to furnish these committees regular and special reports on matters within their purview, subject, of course, to proper security measures? Would this not be a valuable addition to the infrequent and wide-ranging briefings now given the committee?

Mr. COLBY. The Director of Central Intelligence traditionally has given briefings on the world situation and on specific topics to a number of Senate and House committees. I will review the matter and report to the Armed Services Committee on the possibility of supplementing such briefings by appropriate written materials, provided these can be maintained on a classified basis. I think this can be accomplished without legislation.

Senator HUGHES. What steps have been taken or will you take to insure that the CIA never again will be involved in domestic American activities, as it was in the training of police personnel from several U.S. cities and in the assistance to Howard Hunt and Gordon Liddy?

Mr. COLBY. A careful review has been made of all possible Agency involvement in domestic American activities, and instructions are being issued to ensure that no violation of the limitations of CIA's statutory authority takes place in the future. With respect to the training of local police personnel, I reiterate Dr. Schlesinger's assurance

that, despite the fact that its legality might be defended, any further such action will be taken only in the most exceptional circumstances and with the Director's personal approval. Regulations are being developed with respect to CIA assistance to other U.S. agencies and personnel to ensure that any such assistance raises no question of CIA involvement in domestic American activities.

Senator HUGHES. Mr. Colby, published reports say that your experience has been in the plans and operations side of the CIA rather than in intelligence or science and technology. Because of the availability of new technical intelligence gathering means, not to mention the backlash and suspicion in many areas of the world regarding agents, do you believe that the time has come to reduce some of our overseas operations in order to put greater stress on intelligence analysis and science and technology?

Mr. COLBY. Over the past 15 years great stress has been placed on scientific and technological intelligence gathering, which has made a great contribution to accurate knowledge of important foreign developments. Overseas intelligence operations must only be conducted in circumstances fully justifying the risks involved and in situations which cannot be covered by more normal methods. Analysis has made a substantial contribution to intelligence and is being improved and refined to the greatest degree possible.

Senator HUGHES. Published reports also give you a key policy role in decisions to involve the United States in clandestine operations in Laos in the late 1950's and early 1960's—operations which grew into a secret, CIA-run war.

(a) On reflection, do you believe that it was wise for the Agency to get involved in such military operations?

(b) Do you believe that it is proper under our Constitution for such military operations to be conducted without the knowledge or approval of the Congress?

(c) Where should the line be drawn between CIA and Defense Department activities involving the use of armed force?

Mr. COLBY. The Agency's activities in Laos were undertaken in direct response to Presidential and National Security Council direction in order to carry out U.S. policy and at the same time avoid the necessity for uniformed U.S. involvement in Laos. These activities grew in size over the years to meet greater North Vietnamese and Pathet Lao pressure. The size to which these operations grew made it difficult to maintain normal intelligence procedures. Despite the difficulties for CIA, I submit that the Agency fulfilled the charge given it efficiently and effectively.

The appropriate committees of the Congress and a number of individual senators and congressmen were briefed on CIA's activities in Laos during the period covered. In addition, CIA's programs were described to the Appropriations Committees in our annual budget hearings.

In general, the line should be drawn between CIA and the Defense Department with respect to armed force at the point in which the United States acknowledges involvement in such activities. As a practical matter, however, the scale of the activity will, in many cases, also affect whether the United States is revealed as engaged in the activity.

Senator HUGHES. Where do you—and should we—draw the line

between simply gathering intelligence and manipulating events or interfering in the internal affairs of other countries? In particular, why should the CIA play any role in nations of the underdeveloped world which pose no conceivable threat to us?

Mr. COLBY. As indicated above, the use of intelligence techniques should be reserved to cases of importance in which no other means will serve. This same approach is even more stringently applied to any activity which could be construed as interfering in the internal affairs of other nations, and such activities are only conducted under the specific direction of the National Security Council. With this approach, it would be unlikely that CIA would play a role of this nature in any nation whose policies pose no conceivable threat to U.S. interests.

Senator SYMINGTON. I am impressed with your answers, and look forward to voting for your confirmation, hoping you will carry out the philosophy you have expressed this morning. If you do, your Agency will perform an important function incident to the security and prosperity of this country.

Thank you, and good luck.

Mr. COLBY. Thank you very much, Mr. Chairman.

Senator SYMINGTON. The committee is adjourned.

[Whereupon, at 11 :40 a.m., the committee was adjourned.]

NOMINATION OF WILLIAM E. COLBY TO BE DIRECTOR OF CENTRAL INTELLIGENCE

FRIDAY, JULY 20, 1973

**U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.**

The committee met, pursuant to notice, at 10 a.m., in room 235, Richard B. Russell Senate Office Building, Hon. Stuart Symington (acting chairman).

Present: Senators Symington (presiding), Cannon, Hughes, Nunn, and Thurmond.

Also present: T. Edward Braswell, Jr., chief counsel and staff director; R. James Woolsey, general counsel; John A. Goldsmith, Edward B. Kenney, professional staff members; Ben J. Gilleas, director of investigations, Preparedness Investigating Subcommittee; and Katherine Nelson, assistant to Senator Symington.

Senator SYMINGTON. The hearing will come to order.

Congressman Drinan, we welcome you today. We will hear testimony from five witnesses who have requested to be here. You are the first witness.

We will hear first from you, Congressman Drinan. Do you have a prepared statement?

STATEMENT OF ROBERT F. DRINAN, U.S. REPRESENTATIVE FROM MASSACHUSETTS

Representative DRINAN. I do, Senator.

Senator SYMINGTON. Will you read it?

Representative DRINAN. Yes, I will read it. But may I submit it as given here for the record at this time?

Senator SYMINGTON. Without objection.

Representative DRINAN. I have come to testify against the appointment of Mr. Colby as the Director of the CIA because I have been almost compelled by the voice of my conscience to raise my voice to prevent the confirmation of a man whose activities in Vietnam and whose testimony before this committee on July 2, 1973, indicate that almost certainly he will continue within the CIA those activities of this intelligence agency which have brought disgrace to the Federal Government and to the American people.

On Sunday, June 1, 1969, I and seven other Americans talked with William E. Colby in Saigon from 4:30 p.m. to 6:45 p.m. I was in South Vietnam as a member of the privately financed U.S. Study

Team on Religious and Political Freedom from May 29 to June 10, 1969. We put our report in the Congressional Record 4 years ago.

When I read that Mr. William Colby had been appointed as the Director of the CIA I reviewed very carefully the notes which I took during and after the 2 hours that I and my associates spent with Mr. Colby more than 4 years ago. Mr. Colby at that time was, of course, in charge of the Phoenix program or CORDS. The precise purpose of the study team of which I was a member was to determine the number of political prisoners and the extent to which, if any, the United States was contributing to the suppression of political freedom in South Vietnam.

Mr. Colby did his best to prevent us from acquiring any hard information from him or from his associates. For the first 26 minutes of the interview Mr. Colby explained several obvious matters about South Vietnam all of which were thoroughly known to the eight members of the U.S. study team. Mr. Colby also went out of his way to explain that President Johnson had given him the personal rank of Ambassador when he left the CIA and agreed to run the Phoenix program for the State Department.

At no time did Mr. Colby even concede the possibility that the pacification program was assisting the government of President Thieu to put in jail all of the political activists who alone could form a political party or a political coalition capable of running a candidate in a genuine election against President Thieu.

Mr. Colby conceded that the number of political prisoners increased as the pacification program became more widespread in South Vietnam. Mr. Colby also conceded that many of the political prisoners did not receive a trial and that many of them remained for months and years in prison merely because of the suspicion of some local official. Mr. Colby stated "I know brutality exists" and added without much proof that "we try to do something about it." He never made clear, however, what he tried to do about the widespread existence of brutality in prisons—a phenomenon which I and my associates heard everywhere in South Vietnam.

Mr. Colby offered no assistance whatsoever and in fact professed total ignorance about the "tiger cages" in the prison on Con Son Island. We were unable to discover these dungeons which were eventually discovered a year later by a U.S. congressional team, members of which almost stumbled by accident upon the existence of these hideous dungeons.

In fact Mr. Colby indicated that he knew little about the conditions in the prisons most of which were built with American money and designed by American engineers. I and the other members of the U.S. Study Team of Political Freedom in South Vietnam felt indignation at the way that Mr. Colby evaded our questions and outtalked us as a form of brushoff.

I did not learn until 1971 that during Mr. Colby's period with the pacification program 20,587 South Vietnamese people were killed. During that same period—1968 to May 1971—28,978 persons were captured or jailed.

One had the impression of Mr. Colby on that Sunday afternoon in June, 1969 of an individual who would do what he was told, carry out orders as they were given and always seek by misleading or decep-

tive statements to deny that anything was wrong in the program which he was implementing.

This impression was deepened by a conversation—which I will never forget, Mr. Chairman—which I had with an American prison official, present during our entire interview with Mr. Colby, who spoke to me as I was leaving Mr. Colby's office. This individual who had come to Saigon from the United States because he was an expert in building prisons had denied in the presence of all of us that there was any brutality against the political prisoners that were literally rounded up by the Phoenix program and herded into prisons. He confessed privately to me, however, as I was leaving that he knew of extensive brutality and he hoped that the U.S. study team would expose it to the entire world. He concluded by stating that he would deny what he had said if I ever attributed it to him!

On the basis of what we saw in South Vietnam the study team recommended that the Nixon administration and the Congress have a complete investigation of the extent to which American officials in the pacification program have turned over innocent South Vietnamese citizens to military field tribunals, the equivalent of a kangaroo court, and thus have contributed to the disappearance of all political opposition to President Thieu.

The study team predicted that the total number of political prisoners would increase as long as the pacification program continued. This has of course happened so that now there are some 200,000 political prisoners in South Vietnam—a situation which makes it virtually impossible for any political opposition to arise against President Thieu.

Mr. Colby seemed incapable of comprehending the fact that the U.S. Government and particularly the pacification program was making a mockery of the constitution of South Vietnam. He kept insisting that war conditions existed in South Vietnam and that therefore the violations were understandable. Mr. Colby seemed actually unwilling to listen when John Pemberton, the executive director of the American Civil Liberties Union and Methodist Bishop James Armstrong, members of the team, pointed out to him that the South Vietnamese Constitution provides:

Any restriction upon the basic rights of the citizens must be prescribed by law and the time and place within which such a restriction is enforced must be clearly specified. In any event the essence of all basic freedoms cannot be violated.

We found of course other American officials in South Vietnam who were just as insensitive to the complicity of the United States in lawlessness as Mr. Colby appeared to be.

I feel obliged by my convictions and by my conscience to state that a man who displayed the attitudes which Mr. Colby did when he operated the Phoenix program should not be confirmed by the Congress of the United States to be the Director of the CIA.

I want also to raise other questions about the unsatisfactory nature of the testimony which Mr. Colby gave on July 2, 1973, before this committee. I also want to state my shock and indignation that 1 hour and 40 minutes has been the total time spent, with one Senator present, in hearings on the crucial question of who will be the next Director of the CIA. But I recognize that that now has changed, and I hope that these hearings will remain open as long as any Member of Congress

or any knowledgeable individual wants to testify about this crucial matter.

This is the Agency, we must remember, that brought disgrace to itself by its involvement with the TTT in Chile, shock and anger to everyone by its involvement in the Watergate scandal.

The chairman of this committee also stated in his opening remarks that the hearing on Mr. Colby will "also review a number of policies relating to the CIA itself." The chairman went on to note that we are going to take this opportunity to try to get a better understanding for ourselves and for the people as to just what the CIA is and what it is supposed to do.

I want to state, with all due respect, that it has been the Senate Armed Services Committee which, more than any other agency in Congress, has prevented the Congress and the people of this country from knowing anything about the CIA. In the last 2 decades more than 200 bills aimed at making the CIA accountable to Congress have been introduced. None has been enacted. The most recent attempt to make the CIA accountable came on July 17, 1972, when the Senate Foreign Relations Committee reported out a bill requiring the CIA to submit regular reports to congressional committees. That bill died in the Senate Armed Services Committee.

In all candor, Mr. Chairman, the record of the Senate with regard to oversight of the CIA has been disgraceful. On November 23, 1971, Senator John Stennis and Senator Allen Ellender—then the chairmen of the Armed Services and the Appropriations Committee as well as of their CIA Oversight Subcommittee—said that they knew nothing about the CIA-financed war in Laos—surely CIA's biggest operation. (Congressional Record page S19521-19530.)

I hope therefore that these hearings will remain open, as I mentioned, should any Member of Congress want to address himself to this question.

I find the testimony of Mr. Colby very ambiguous, equivocal and unsatisfactory. His justification of the Phoenix program added little to the unsatisfactory evidence which he gave on that matter before the Senate and House congressional committees in 1970 and 1971. He made absolutely no response then or on July 2, 1973 to the vehement criticisms made of the basic injustices in that program of which he was practically the architect.

Nowhere has Mr. Colby responded to the criticism that he and the Phoenix program have brought about the virtual dictatorship of President Thieu because the United States has put all of the potential political opponents of President Thieu in jail.

I visited Mr. Rowe in his jail after the election in 1968 and talked with him for more than an hour.

Mr. Colby stated on July 2—on page 15—that he directed any Americans in South Vietnam to report any illegal abuses to higher authority. Mr. Colby states that he did receive some reports of misbehavior, that he took them up with the South Vietnamese Government and that he "saw action taken against the individual doing it." This may have been in some individual cases but the awful fact remains that Mr. Colby presided over a pattern of total lawlessness and absolute violation of the basic and fundamental norms of constitutional governments in South Vietnam during the entire life of the Phoenix program.

I do not want to have a Director of the CIA who for whatever reason by his own admission was unable or unwilling to guarantee to South Vietnamese citizens the basic provisions of due process.

Mr. Chairman, I wish to set forth another reason why in my judgment the confirmation of Mr. Colby should be postponed. On July 2, 1973, Mr. Colby was asked by the chairman if he would allow Members of the Congress to "see at least the general amount which is spent for intelligence functions annually." Mr. Colby stated on several occasions during that hearing that that would be up to the Congress itself. And I think we should take Mr. Colby at his word and ask Mr. Colby how the CIA spent that money.

Mr. Colby made no objection to that right of the Congress, and the least that the Congress could do is to postpone the appointment of Mr. Colby until we have asserted our right to know what the CIA is doing and how it spends the money appropriated for it.

If Mr. Colby is confirmed and the CIA continues to become involved in activities which bring disgrace to it and shame to the American people the citizens of this nation can blame the Congress and the Congress alone. At this particular time of substantial change in our foreign policy it would be reckless and irresponsible for the Congress to refuse to take Mr. Colby at his word and to decline to say that from this day forward the Congress will, as Mr. Colby concedes it can, establish the budget of the CIA.

I object to Mr. Colby's confirmation because in the testimony on July 2 he made no firm commitment that the CIA under his direction would not become involved in another operation such as the CIA conducted in Laos.

In response to questions asked by Mr. Hughes, Mr. Colby in writing was even more ambiguous about the involvement in Laos, and would not concede, as Senator Hughes suggested, that that was a very inappropriate and unlawful activity on the part of the CIA.

Mr. Colby is also less than clear or satisfactory when he states that he would not preclude the CIA from assisting other Federal agencies even though the CIA should restrict all of its activities to foreign intelligence operations. Mr. Colby says, for example, that he can "envisage a situation in which it would be appropriate for the agency to help not Mr. Howard Hunt but a White House official to meet somebody without coming to public notice."

It is true that the CIA has given to individuals in Congress that are highly placed some information about the finances. But in all candor, this is cheating me as a Member of the Congress, and the people I represent, of the knowledge and the information to which the citizens of this country are entitled.

Mr. Chairman, for the first time in history you have boldly and courageously had an open hearing on the CIA and the confirmation of a chairman. But at that hearing Mr. Colby would not even disclose the nature and makeup of the so-called Forty Committee, a secret group accountable to the National Security Council. And, Mr. Chairman, Mr. Colby has done intelligence work for most of his adult life. He believes in the apparatus set up by this Forty Committee, but he would not tell us in public what that Forty Committee does. Mr. Colby believed in the Phoenix program; he believes in sending American citizens to other nations who will pretend that they are not employees of the CIA. And I hope fervently, Mr. Chairman, that the world of se-

eredy in Government that created all these horrendous things and in which Mr. Colby has been involved for some years are now coming to an end.

In conclusion, I would therefore urgently plead that the confirmation of Mr. Colby be delayed until the Members of Congress can review the National Security Act of 1947, can question Mr. Colby extensively, can establish Congressional review of the budget of the CIA and, in short, raise and resolve this basic question: Does the United States in 1973 want or need a clandestine CIA headed by an individual who carried out the most despicable part of the war which most Americans feel was the greatest mistake the United States ever made?

Mr. Chairman, I thank you for this opportunity. And I will respond to any questions.

[Congressman Robert F. Drinan's full testimony follows:]

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When I read that Mr. William Colby had been appointed as the Director of the CIA I reviewed very carefully the notes which I took during and after the two hours that I and my associates spent with Mr. Colby more than four years ago. Mr. Colby at that time was, of course, in charge of the Phoenix Program or CORDS. The precise purpose of the study team of which I was a member was to determine the number of political prisoners and the extent to which, if any, the United States was contributing to the suppression of political freedom in South Vietnam.

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I did not learn until 1971 that during Mr. Colby's period with the pacification program 20,587 South Vietnamese people were killed! During that same period (1968 to May 1971) 28,978 persons were captured or jailed.

One had the impression of Mr. Colby on that Sunday afternoon in June, 1968 of an individual who would do what he was told, carry out orders as they were given and always seek by misleading or deceptive statements to deny that anything was wrong in the program which he was implementing.

This impression was deepened by a conversation which I had with an American prison official, present during our entire interview with Mr. Colby, who spoke to me as I was leaving Mr. Colby's office. This individual who had come to Saigon from the United States because he was an expert in building prisons had denied in the presence of all of us that there was any brutality against the political prisoners that were literally rounded up by the Phoenix program and herded into prisons. He confessed privately to me, however, as I was leaving that he knew of extensive brutality and he hoped that the U.S. study team would expose it to the entire world. He concluded by stating that he would deny what he had said if I ever attributed it to him!

On the basis of what we saw in South Vietnam the study team recommended that the Nixon Administration and the Congress have a complete investigation of the extent to which American officials in the pacification program have turned over innocent South Vietnamese citizens to military field tribunals, the equivalent of a kangaroo court, and thus have contributed to the disappearance of all political opposition to President Thieu.

The study team predicted that the total number of political prisoners would increase as long as the pacification program continued. This has of course happened so that now there are some 200,000 political prisoners in South Vietnam—a situation which makes it virtually impossible for any political opposition to arise against President Thieu.

Mr. Colby seemed incapable of comprehending the fact that the United States government and particularly the pacification program was making a mockery of the constitution of South Vietnam. He kept insisting that war conditions existed in South Vietnam and that therefore the violations were understandable. Mr. Colby seemed actually unwilling to listen when John Pemberton, the Executive Director of the American Civil Liberties Union and Methodist Bishop James Armstrong, members of the team, pointed out to him that the South Vietnamese Constitution provides:

"Any restriction upon the basic rights of the citizens must be prescribed by law and the time and place within which such a restriction is enforced must be clearly specified. In any event the essence of all basic freedoms cannot be violated."

We found of course other American officials in South Vietnam who were just as insensitive to the complicity of the United States in lawlessness as Mr. Colby appeared to be.

I feel obliged by my convictions and by my conscience to state that a man who displayed the attitudes which Mr. Colby did when he operated the Phoenix program should not be confirmed by the Congress of the United States to be the Director of the CIA.

I want also to raise other questions about the unsatisfactory nature of the testimony which Mr. Colby gave on July 2, 1973 before this committee. I also want to state my shock and indignation that one hour and 40 minutes has been the total time spent, with one Senator present, in hearings on the crucial question of who will be the next Director of the CIA. This is the agency which has brought disgrace to itself by its involvement with the ITT in Chile, shock and anger to everyone by its involvement in the bugging of the office of the psychiatrist of Dr. Daniel Ellsberg and universal horror by its involvement in the Watergate scandal.

I also want to express my protest that the Senate Committee on Armed Services have given a totally inadequate explanation of why it held the one hearing on Mr. Colby on July 2 when the Congress was not in session. The only explanation is the words of the chairman who opened the hearing by stating: "We regret that most of the members are absent because of the recess but in as much as Director Schlesinger has now become Secretary of Defense we thought it would be advisable to have Mr. Colby here at the earliest opportunity in order

to consider his confirmation as the new Director of the CIA." I personally would hope that the chairman would send a personal letter to every single member of the House and of the Senate inviting them to testify if they so desire about the nature and the future of the CIA.

The chairman of this committee also stated in his opening remarks that the hearing on Mr. Colby will "also review a number of policies relating to the CIA itself". The chairman went on to note that "we are going to take this opportunity to try to get a better understanding for ourselves and for the people as to just what the CIA is and what it is supposed to do."

I want to state, with all due respect, that it has been the Senate Armed Services Committee which, more than any other agency in Congress, has prevented the Congress and the people of this country from knowing anything about the CIA. In the last two decades more than 200 bills aimed at making the CIA accountable to Congress have been introduced. None has been enacted. The most recent attempt to make the CIA accountable came on July 17, 1972 when the Senate Foreign Relations Committee reported out a bill requiring the CIA to submit regular reports to Congressional committees. That bill died in the Senate Armed Services Committee.

In all candor, Mr. Chairman, the record of the Senate with regard to oversight of the CIA has been disgraceful. On November 23, 1971 Senator John Stennis and Senator Allen Ellender—then the Chairmen of the Armed Services and the Appropriations Committee as well as of their CIA oversight Subcommittee—said that they knew nothing about the CIA-financed war in Laos, surely CIA's biggest operation (*Congressional Record* page S19521-19530).

I hope therefore that these hearings which, as the chairman has noted, are designed to bring about a "better understanding for ourselves and for the people" (and I underline for the people!) will remain open as long as any member of the Congress desires to address himself to this question.

I congratulate the chairman for having an open hearing for the first time on the confirmation of a director since the CIA was established in 1947.

I find the testimony of Mr. Colby very ambiguous, equivocal and unsatisfactory. His justification of the Phoenix program added little to the unsatisfactory evidence which he gave on that matter before the Senate and House Congressional committees in 1970 and 1971. He made absolutely no response then or on July 2, 1973 to the vehement criticisms made of the basic injustices in that program of which he was practically the architect.

No where has Mr. Colby responded to the criticism that he and the Phoenix program have brought about the virtual dictatorship of President Thieu because the United States has put all of the potential political opponents of President Thieu in jail! Mr. Colby stated on July 2 (on page 15) that he directed any Americans in South Vietnam to report any illegal abuses to higher authority. Mr. Colby states that he did receive some reports of misbehavior, that he took them up with the South Vietnamese government and that he "saw action taken against the individual doing it". This may have been in some individual cases but the awful fact remains that Mr. Colby presided over a pattern of total lawlessness and absolute violation of the basic and fundamental norms of constitutional government in South Vietnam during the entire life of the Phoenix program.

I and my associates told this to Mr. Colby on June 1, 1969 in Saigon. He states in his testimony on July 2, 1973 that it was not until 1971 that a South Vietnamese citizen was able to receive a copy of the charges made against him and to have a hearing on those charges at which he could actually appear.

I do not want to have a director of the CIA who for whatever reason by his own admission was unable or unwilling to guarantee to South Vietnamese citizens the basic provisions of due process.

Mr. Chairman, I wish to set forth another reason why in my judgment the confirmation of Mr. Colby should be postponed. On July 2, 1973 Mr. Colby was asked by the chairman if he would allow members of the Congress to "see at least the general amount which is spent for intelligence functions annually". Mr. Colby answered by stating "I would propose to leave that question, Mr. Chairman, in the hands of the Congress to decide".

In response to a similar question as to whether the Congress should be able to decide on the budget for the intelligence community each year as for all other Federal agencies Mr. Colby responded; "That would be up to the Congress again, Mr. Chairman."

As a member of Congress I want to assert in the clearest and most vigorous way available to me that I think that the Congress should take Mr. Colby at

his word and decide right now that Congress has the right and a duty to know what money is spent by the CIA and how it is spent. Mr. Colby has made no objection and the least that the Congress could do if it is to confirm Mr. Colby is to assert the right which Mr. Colby has conceded is that of the Congress,—namely the right to set the budget each year for the CIA just as it does for every other agency of the Federal government.

If Mr. Colby is confirmed and the CIA continues to become involved in activities which bring disgrace to it and shame to the American people the citizens of this nation can blame the Congress and the Congress alone. At this particular time of substantial change in our foreign policy it would be reckless and irresponsible for the Congress to refuse to take Mr. Colby at his word and to decline to say that from this day forward the Congress will, as Mr. Colby concedes it can, establish the budget of the CIA.

I object to Mr. Colby's confirmation because in the testimony on July 2 he made no firm commitment that the CIA under his direction would not become involved in another operation such as the CIA conducted in Laos. Mr. Colby only stated that "it is very unlikely that we will be involved in such an activity". Mr. Colby furthermore, does not want the Congress to change the 1947 act that created the CIA. Mr. Colby conceded that the adventure in Laos "undoubtedly" went beyond what Congress intended" when it stated that the CIA should perform other functions as designated by the National Security Council. Even so Mr. Colby felt that the 1947 act should not be changed "because I think that the agency might be fettered in some respects which would be of importance to the United States . . ."

Mr. Colby is also less than clear or satisfactory when he states that he would not preclude the CIA from assisting other Federal agencies even though the CIA should restrict all of its activities to foreign intelligence operations. Mr. Colby says, for example, that he can "envisage a situation in which it would be appropriate for the agency to help not Mr. Howard Hunt but a White House official to meet somebody without coming to public notice". Similarly Mr. Colby approves of a secret FBI-CIA arrangement by which both of these agencies agree to help each other. Mr. Chairman, as a member of the House Judiciary Committee with direct oversight of the Department of Justice and the FBI I feel that I have a right to see that document and to question those who wrote it and those who operate by it. On page 56 of his testimony Mr. Colby states that he has not had a chance to review this matter in detail. I feel strongly that the Congress of the United States should review the agreement between the CIA and the FBI which, Mr. Colby tells us was "drawn up some years ago."

I feel, Mr. Chairman, that the time has long since passed when the Congress of the United States should review completely and openly the nature and purpose of the CIA. It is frightening to me to consider the implications of one of Mr. Colby's statements on July 2. On page 64 he states that "certain structures are necessary in this country (America) to give our people abroad perhaps a reason for operating abroad in some respect so that they can appear not as CIA employees but as representatives of some other entity . . ." If the American people and the Congress are going to finance James Bond types like Mr. Colby suggests I think that the elected members of the Congress have a right to know about it. Up to now the CIA has pretended that they inform a handful of members of the House Appropriations Committee and a few members of the Senate Armed Services Committee. That is not informing the Congress. That is cheating me as a member of the Congress and the people that I represent of the knowledge and the information to which the citizens of this country are entitled.

Mr. Chairman, the CIA for the first time in the history of this nation has introduced a secret agency into our government. It may have been necessary in 1947. You, Mr. Chairman, stated on July 2 that "everybody realizes the way the world is today we need an agency like the Central Intelligence Agency". That is your conviction honestly arrived at but I as a member of Congress also have the right to have the basic information so that I can make some judgment as to whether we do in fact need a CIA today.

The senior members of the House and of the Senate have conspired to prevent the younger members of the House and of the Senate knowing anything about the CIA. I think that the younger members of the House and of the Senate have a right to resent that type of treatment. Their constituents also have a right to deplore the arrogance of senior members of Congress alleging or pretending that the CIA has adequately informed them of the budget and the activities of the CIA.

Mr. Chairman, Mr. Colby would not even disclose on July 2 the nature and the makeup of the so-called 40 Committee, a secret group accountable to the National

Security Council. Dr. Kissinger is the chairman of the 40 Committee. Is it not incongruous that the Senate has the right to confirm the appointment of Mr. Colby, the Director of the CIA, but has no right to confirm Dr. Kissinger or even to compel him to come and testify? Similarly the Congress knows virtually nothing of the supersecret clandestine 40 Committee,—a group which over the past 10 years or more has involved this nation, without its advice or consent, in ill-advised wars, known and unknown, all around the world.

Mr. Chairman, Mr. Colby has done "intelligence" work for most of his adult life. He believes in the apparatus set up by the 40 Committee. He believed in the Phoenix program in South Vietnam. He believes in sending American citizens to other nations who will pretend that they are not employees of the CIA.

Mr. Chairman, I hope fervently that the world of secrecy in government that created all of these horrendous things in which Mr. Colby has been involved for so many years is coming to an end.

I would therefore urgently plead that the confirmation of Mr. Colby be delayed until the members of Congress can review the National Security Act of 1947, can question Mr. Colby extensively, can establish Congressional review of the budget of the CIA and, in short, raise and resolve this basic question: Does the United States in 1975 want or need a clandestine CIA headed by an individual who carried out the most despicable part of the war which most Americans feel was the greatest mistake the United States ever made?

Senator SYMINGTON. Thank you, Congressman. We appreciate your frankness in stating your position.

You mentioned the fact that we had this hearing that only one Senator was present. We scheduled the hearing on a day that was not part of the recess that we had planned and were told by the leadership. Later on the House scheduled it a few days earlier, and then unfortunately the Senate changes its position and extended the recess. That is the reason he came up on a day that was not a day that the Senate met.

Also, as you see, we do not have a crowd of Senators here this morning.

Representative DRINAN. That is understandable.

Senator SYMINGTON. Senator Thurmond was here and is coming back as soon as he can. And Senator Cannon is here, and Senator Nunn.

I might add also—I am just looking over your statement—that this was the first time that a CIA nominee for Director has ever appeared in an open hearing. One of the reasons that we did it that way was because we felt he should state his position, which he has done, but then, let me add, after the recess was over, and in accordance with past custom, we interrogated him extensively in a closed hearing. And at that time he gave us in complete detail his budget, his money—which I agree with you is something that the Congress should know a great deal about.

I have just been given a note—

Representative DRINAN. I hope, Mr. Chairman, that therefore the general details of the budget would in fact be known to all Members of the Congress. That is one of the points that I make. And I don't think that it is truly in the best interests of the country or the Congress or the people to have only a very few people in the House Appropriations Committee or in the Senate Armed Services Committee know of that budget and not disclose that to other Members of the Congress.

Senator SYMINGTON. Well, I think that is true. And I might also add that in executive hearing, in accordance with past custom, he came before the CIA subcommittee, not the full committee of the Senate. I want to be sure that the record is right.

I have a few questions to ask you, sir.

As you know, we are glad to have you here. The question that is before us is the qualifications of Mr. Colby to be Director. He reports to the National Security Council, but the National Security Council is an advisory council to the President—that is, if he is confirmed he would report to the National Security Council. In fact, the President is the chairman of the advisory council that is his. So, therefore, in fact, Mr. Colby reports directly to the President of the United States if he is confirmed. And the Acting Director today, General Walters, therefore reports directly to the President.

When your study team made its trip to Vietnam the war was in full swing, was it not?

Representative DRINAN. It was in 1969, yes, it was one of the worse years, after the Tet offensive.

Senator SYMINGTON. Putting aside what you felt were his inhibitions on your team, do you believe that Mr. Colby's own efforts could have remedied the situation in Vietnam which you have criticized in your statement, in view of the policies and in the face of the policies that had been set and were being set in Washington?

Representative DRINAN. Yes, I do. And we made it very clear in the report, which is in the Congressional Record, that he could have insisted on the fundamental right to a trial, and that he did not. We pointed out to him in June 1969 that these people who were being swept into prison by the U.S. forces didn't have a hearing, didn't even know the charges against them. And he admits himself—and this is in my testimony—I didn't read it—he admits himself that it was not until 1971 that every Vietnamese person accused of being with the Vietcong, it was not until 2 years after that that they had the basic right to be presented with the testimony against them or the charges against them and to be present personally at a hearing. So I do insist that despite the orders that he had, he was responsible for the sweeping injustices done to thousands of individuals who were South Vietnamese.

Senator SYMINGTON. As you know, the Phoenix program was not a program of the United States, it was a program of the South Vietnamese which we supported.

Representative DRINAN. With U.S. military advisers in every hamlet.

Senator SYMINGTON. He was sent out there with instructions to support the South Vietnamese Phoenix program. That I think we have established.

Do you know about what might be called the pre-Colby policy incident to Phoenix and what was being done prior to his arrival?

Representative DRINAN. I think I do, Senator. I think it is fair to say, though, that Mr. Colby was the architect of the Phoenix program, of the pacification program. Something like that existed prior to that time, and apparently was ineffective. Some people say that the Phoenix program was ineffective. I think it was tremendously ineffective in that it jailed the very people who alone could form some coalition that might oppose in a genuine election the present president.

Senator SYMINGTON. Now, on page 10 you say: "The CIA for the first time in the history of this Nation has introduced a secret agency into our Government." Would you say that the CIA created the CIA or that the Congress created the CIA?

Representative DRINAN. No, I have the basic law here created by the Congress in 1947. And as you know, this was for the first time the creation of any agency that did in fact have secret powers. And it may have been required at that time, but I think all the Members of Congress at this moment in history have the right and the duty to re-ask the basic question of whether or not any secret agency of this type can or should exist.

Senator SYMINGTON. Would you say, with the way the world is, that we should abandon an agency that was created primarily to obtain intelligence about the enemy and enemy actions in all other countries?

Representative DRINAN. I can't answer that, Senator, as long as they are holding from me and other Members of Congress the basic information. I don't know about the CIA. I don't know about its budget; I don't know what it is doing. And I say this is a fundamental denial of my rights as a Member of Congress and I say that that question is therefore impossible to answer.

Senator SYMINGTON. You have a CIA subcommittee of the House Armed Services Committee—

Representative DRINAN. We do.

Senator SYMINGTON. Have you discussed this matter with that subcommittee?

Representative DRINAN. I have and I commend Congressman Nedzi of Michigan for doing a very fine job in this newly revised subcommittee of the CIA. But I am sure that Mr. Nedzi would agree with me that the Members of the House and the Members of the Senate still know virtually nothing about the CIA. The only time I hear about the CIA is when it does something foolish and makes the headlines, like the TTT in Chile and the Bay of Pigs, and so many other scandals.

Senator SYMINGTON. Let me say, the rules of this committee are to get the testimony in 24 hours ahead if possible, so that we can study it and establish answers against it, and we only got your testimony a short time ago. So there are perhaps other questions that I would like to ask you based on it. And with your approval, I will submit these for the record.

When you say that the senior Members of the House and of the Senate have conspired to prevent the younger Members of the House and Senate knowing anything about the CIA, that I think is a little strong.

Representative DRINAN. I meant it to be strong, Senator.

Senator SYMINGTON. Would you tell us a little more about that?

Representative DRINAN. I meant it to be strong. And I am not retreating from it. But all I can say is that the small subcommittees of the House and of the Senate that know something about the budget of the CIA have agreed to keep this information from other Members of the Congress. And I think that is fundamentally wrong. They want us to make judgments on their knowledge and to have an act of faith in them. And many months ago this came up on the floor of the House. And the chairman of the House Armed Services Committee at that time, rather than to allow us to go forward with an amendment to delete all funding in this bill for the CIA, said that he would reactivate the committee on the CIA, which he has done. But we have never had a vote on how much money the CIA gets, we don't know where

that money is buried, or for what purposes. So I just think it is fundamentally wrong.

Senator SYMINGTON. On page 10, Mr. Congressman, you say that Mr. Colby did not disclose the nature of the makeup of the so-called Forty Committee. He gave us the details of that in executive session. And therefore we understand the nature of that committee.

Let me say that I believe that the CIA has been instructed by higher authorities to do things that it should not do and that its original charter, you might say, did not justify us doing, like, for example, running a war over a period of years in Laos. Perhaps some of us have been instrumental in trying to bring all that problem to light, so that the Agency contains itself as to what it was originally created for, namely, an intelligence agency, an intelligence-gathering agency. On the other hand, the people who ran the Agency were under instructions from higher authority to do that.

One of the interesting things—and I submit to you that you might consider discussing with Congressman Nedzi and others—is that whereas in the country in question, like Laos, under the so-called Kennedy letter, the head of the CIA reports to the Ambassador, and the Ambassador directs his operation. But when you got back here to Washington, there was no relationship carried on, and the CIA was independent of the Foreign Relations Committee. You see my point. So there seems to be a paradox, if not a dichotomy, you might say, that there is a change of command as to congressional review.

Representative DRINAN. I think it is contrary to the statute. I think they go far beyond their functions. And I think they go far beyond what the National Security Act of 1947 provides for. And I might add that when Mr. Colby was asked about that in the letter or the question posed by Senator Hughes, he would not concede, and I have it before me—that the activities of the CIA in Laos were improper, or inappropriate, or illegal. And I therefore think that this is a very key point, that he will not concede that the CIA made any error in that escapade in Laos.

Senator SYMINGTON. You know the clause, which I do not have before me, in the CIA charter, which the administration says justifies its functioning.

Representative DRINAN. They will do anything that the National Security Council directs them to do. I have it here, Senator. I think that is the operative word, is it not, that they will do anything that the National Security Council mandates them to do?

Senator SYMINGTON. What worries me is that I have felt for some time that our military budget was too high in cost. And I am depressed with recent reports, such as that report that Mr. Warnke, former Assistant Secretary of Defense, presented before our committee in an open session earlier this week, where there was a savings estimated at \$14 billion. And then I saw the Brookings Institute Report yesterday which stated that there could be a savings anywhere from \$10 to \$25 million in the military budget if we moved more toward modernity, you might say, in weapons as against tradition. And yet invariably the military budget will be decided on in the long run on the basis of what any possible enemy has capable of attacking in the United States. And without an agency of this character, I don't see how we could be fairly

sure that we know what the enemy has. That is one point I submit to you with great respect.

Another point is that everytime that the services come up to justify the billions of dollars that each service wants each year, we always get an analysis from the Central Intelligence Agency as well as an analysis of the possible enemy from the DIA. And with one conspicuous exception, invariably the estimate of the CIA as to the possible enemy ground strength has been considerably less than that submitted by our own people in the Army. Invariably the estimate of the CIA as to the actual strength of the possible enemy naval forces has been less than that of our Navy. And the same thing is true of the Air Force. And the record will show that over the years the CIA has been much more accurate in its estimates than the services have, and therefore I do feel in that field that it has performed a worthy function, which it could only do if it operated as an intelligence agency.

Representative DRINAN. That is one of the reasons, Senator, why I want to get more credibility for our intelligence activities. And in the "Pentagon Papers" it was revealed that the CIA was less wrong than everybody else.

Senator SYMINGTON. The clause that we are told justifies running the war in Laos is in the National Security Act of 1947, as amended:

For the purpose of coordinating the intelligence activities of the several government departments and agencies in the interests of national security, it shall be the duty of the agency under the direction of the National Security Council . . .

And that gives five major duties. The fifth is:

To perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

May I say I agree with you, that I think the functioning of the war in Laos over a period of years does not come under that heading, and I have so stated on the floor of the Senate a number of times.

Representative DRINAN. I know you have, Senator.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Mr. Congressman, on page 4 of your statement you say that there are now some 200,000 political prisoners in South Vietnam. Is that a factual statement?

Representative DRINAN. Yes.

Senator CANNON. If so, how reliable do you think it is?

Representative DRINAN. I think that is quite reliable, sir, from everything we know. President Thieu disputes that and says that some of these are not merely card-carrying Communists but dangerous. But virtually none of those 200,000 have committed an overt act. I have followed this situation over the last 4 years. I spoke most recently to two French citizens who have been there for sometime and who were in prison and who reported reliably on this situation. And it is very clear that President Thieu has in fact consciously or otherwise imprisoned those who could form a coalition against him. I think that is well documented. And the figure 200,000 may in fact be conservative. Some people say it is 300,000 or more.

These people are in prisons made by the United States. And last year or this year, \$21 million was appropriated by the Congress or in the military budget for the creation and maintenance of prisons in South Vietnam.

Senator CANNON. You said just then that President Thieu has had these political prisoners put in, and then on page 7 you say the United States has put all of the potential political opponents of President Thieu in jail. How do you equate that with the United States has put them in jail? Have we in fact been jailing those people?

Representative DRINAN. Under the pacification program there was an American adviser in almost every hamlet. And we went up to the hamlets and saw the military field tribunals. And if a local person said that this particular citizen is dangerous, the American adviser would acquiesce in the jailing of this individual, and would not insist upon fundamental rights of a hearing. The American advisers were a party to this lawlessness, and they acquiesced in it; they cooperated in it. And to some extent they initiated it in the sense that they wanted to get rid of the substructure of the Vietcong.

Senator CANNON. So that by their acquiescence then, of our advisers, you are saying that the United States has jailed all of those political opponents?

Representative DRINAN. We visited with these individuals in jail. We spoke—

Senator CANNON. How many did you visit with?

Representative DRINAN. Dozens, hundreds. In our report we mention name after name. And we had eight members of the team. Some went to Konson; others went out to the highlands. And I saw dozens, hundreds of people, including children 12 to 14 years old, suspected Vietcong. At least one-third or more, Senator, were there without any hearing whatsoever at that time, 1969.

Senator CANNON. You blame Mr. Colby for being, as you say, unable or unwilling to guarantee to South Vietnamese citizens the basic provisions of due process? How can you blame that on Mr. Colby—who is outside of the governing structure of South Vietnam?

Representative DRINAN. He conceded that he would prefer it that way, he conveyed that he would like to have more lawyers. He assumed the responsibility as the director of the Phoenix program for the jailings that were going on as the American advisers, aided by functionaries of the Thieu government, moved into the countryside and jailed those who were associated with the Vietcong, the infrastructure, as they called it. And I think it is fair to say that Mr. Colby felt that he was in fact responsible for this. He admitted that he preferred more due process. And in 1971, he changed the rules, so that at that time every individual who was a South Vietnamese citizen had a right to the charges against him, and had a right to a hearing before he would be sent to jail prior to that time during most of the life of the Phoenix program. In other words, the South Vietnamese citizens did not have those fundamental rights.

Senator CANNON. Are they being guaranteed those rights at the present time?

Representative DRINAN. I doubt it. Most of our advisers, of course, have left. We are no longer in charge of it. I don't know the answer to that question, Senator. I know that those 200,000 remain in jail, sometimes for an indefinite period. There is a very serious problem of political suppression. I don't know how many new individuals are going to jail or what guarantees they might have.

Senator CANNON. My own personal feeling is that you are blaming Mr. Colby for a number of things that he had no control over; actually,

he was sent there to do certain things and carry out certain policies. I think that blame ought to lie with the people over Mr. Colby rather than a man who is carrying out what he is told to do.

Representative DRINAN. We spoke with any number of officials, Senator, here and in the State Department, and in Saigon. And they all said that the Phoenix program is carrying out this pattern. We went there precisely for the purpose of investigating the number of political prisoners. This was a privately sponsored group, funded by the churches and citizens of America to find this out, what is our Government doing. And I am not saying that Mr. Colby is exclusively responsible, I say that we found many American officials who were also implicated in the lawlessness. But the question is, should he be confirmed as the Director of the CIA? And in my judgment, his operation of the Phoenix program does not justify confidence in him.

Senator CANNON. You also said that he made no firm commitment that the CIA under his direction would not become involved in another operation such as the CIA conducted in Laos. I would say that if he made such a commitment as that he would not be a person to put in charge of the CIA, because he would have no say whatsoever as to whether the CIA would or would not become involved in a situation such as Laos. That again would be a policy decision of the U.S. Government, whoever is over the CIA. And if he is told by his superior authority to conduct the type of activity in Laos that has been conducted in some other location, I would presume that he would have to carry out his orders, wouldn't he?

Representative DRINAN. I don't think that even the Director of the CIA has to be obedient to every command that is given to him. He must live within the mandate of the Agency. And it is an intelligence agency. And as the chairman has said, this goes far beyond anything by way of intelligence, when the Embassy itself is in Laos conducting an air war without the knowledge or consent of Congress or the people. So I think there is a point in time when the Director of the CIA would have to say, that is not within the jurisdiction of the CIA, and those functions would not be lawful.

Senator CANNON. I would say that if he had been told to do that by his appointing authority and failed to do it, he wouldn't be Director of the CIA very long. I am sure he would be removed by the appointing authority if he didn't carry out the policies that he was directed to carry out.

I, too, raise the question about your statement on page 10. You said you stood by it, and you admitted it was harsh. I think it is not only harsh, but I think it is not factual. I don't think that you have said one thing here that indicates that any Members of the House or of the Senate have entered into any conspiracy to prevent the younger Members of the House and Senate from knowing anything about the CIA. I think that is a very unfair statement. I don't know whether I would be considered one of the senior Members in that category, but I certainly have had no part in any conspiracy to deprive any Member of the Congress of the right to know what they ought to know about the operations of the CIA. As a matter of fact, I have tried to find out myself on many occasions what actually the CIA was doing. And I have been unsuccessful on occasions. But I certainly don't contend that that is the result of any conspiracy on the part of anybody.

Thank you, Mr. Chairman.

Senator SYMINGTON. I would add that the same thing is true of me. And when you say:

I want to state, with all due respect, that it has been the Senate Armed Services Committee which, more than any other agency of the Congress, has prevented the Congress and the people of this country from knowing anything about the CIA."

I think that is a very unfavorable statement to the House of Representatives. As I understand it, most Members of the House considered that their body has a full and equal position under the Constitution, and certainly in responsibility, that the Senate has, should be shared by the House in a matter of this character, although the Senate does confirm the Director of the CIA, as I am sure you know; under the Constitution the House itself is responsible, and is the only body that can originate the appropriations that at least by inference you are criticizing this morning.

Senator NUNN.

Senator NUNN. Mr. Chairman, before I get into questions I would just like to say that as one of the younger Members of the Senate and one of the youngest members of this committee, 34, and having just arrived, I have had absolutely no problem in this committee or as a Senator in securing information that I desire as far as the CIA operations were concerned. And Chairman Stennis, Chairman Symington, Senator Cannon, Senator Jackson, and Senator Thurmond, everyone that I have ever asked for any kind of help in securing information, has not only been cooperative, but they have arranged briefings and done whatever is necessary. I personally cannot speak for the Members of the House, but I can speak for the Senators. And I can also say that as late as yesterday afternoon I talked to Senator Jackson, and he suggested that I have a briefing, and ask another freshman Senator to come, about the CIA on the threat that we have on strategic weapons now. So, as far as I am concerned, Congressman, as one Senator I can say that I have had no difficulty.

Representative DRINAN. First, let me say that this is rather new, to have briefings.

And secondly, Senator Cannon says he doesn't have enough information about the CIA. Maybe I should have stated that nobody in the whole Congress knows enough about the CIA. And I hope that you learn more and more. This is a welcome development.

Senator NUNN. I am not sure that even the Director of the CIA has all the information about the CIA.

Representative DRINAN. A very good point.

Senator NUNN. And I do think we have obligations, I completely agree with you, to monitor more and more carefully not only the CIA but any other agency that we give this kind of power to.

I would like to ask you a few questions, Congressman.

This statement on page 7 that Senator Cannon was asking about seems to me to be pretty far-reaching where you say:

I do not want to have a Director of the CIA who for whatever reason by his own admission was unable or unwilling to guarantee to the South Vietnam citizens the basic provisions of due process.

If we had an American in either the CIA or military who was guaranteeing the South Vietnam citizens due process, would he not in effect

have to be a dictator of South Vietnam also? Wouldn't he have to take over the Government of South Vietnam? And isn't this directly contrary to your conception of America's role?

Representative DRINAN. One good argument, Senator, is that we have done that. Mr. Colby did keep insisting that we cannot interfere in the internal matters of South Vietnam. We were involved, of course. All I can say is that when we directed a program like the Phoenix, in which we were directly responsible for building the jails, and going out in the Highlands and helping the elected government or the appointed government to destroy the infrastructure of the Viet Cong, that we are in effect acquiescing and cooperating in this denial of basic due process.

Senator NUNN. Do you recall the statute which was a period in 1971—which was in our American law passed by Congress and signed by the President which says:

Whenever there shall be in existence such emergency, the President acting through the Attorney General, is authorized to apprehend and by order obtain, pursuant to the provisions of this Subchapter, each person with respect to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage and sabotage.

Representative DRINAN. I helped to remove that. That is the Japanese Detention Act. One evil doesn't justify another.

Senator NUNN. No, sir. But we had that on our books at the same time that we were running the Phoenix program in South Vietnam. So, in effect, we didn't have due process, under this analogy, guaranteed to our own citizens, and yet you would impose the burden on the Director of the CIA in wartime, in a country that had never had democratic principles, to guarantee due process to those citizens. Is that what you are saying?

Representative DRINAN. That is what I am saying; one evil does not justify another. And if we do what we did in South Vietnam, the least that we could do is to carry out the constitution of South Vietnam itself. I am not asking them to impose American standards. And I quoted the constitution of Vietnam, and that constitution provides for wartime and emergency, but it goes on and says that nonetheless the basic fundamental guarantees must remain under all circumstances.

Senator NUNN. Under that theory he should have been back home trying to get this law off the books, shouldn't he, instead of being in South Vietnam trying to guarantee that due process?

Representative DRINAN. Maybe all of us should have been back home.

Senator NUNN. But you do feel that he should have been able to, and you would think he was disqualified if he was not guaranteeing that due process.

Representative DRINAN. I think it is very clear, Senator, and I pointed out in the testimony that we pointed this out to him in June 1969, that these individuals that we met in prison were swept there not knowing the charges against them, having no hearing, being detained for months or years without any reason given to them. And it was not until 2 years later that Mr. Colby issued a directive that every South Vietnamese citizen must have the charges against him, must have a hearing at which he can appear, before his liberty can be taken away.

Senator NUNN. So he did do that 2 years later?

Representative DRINAN. He certainly did.

Senator NUNN. Do you know the situation prior to Phoenix in South Vietnam? Did the Phoenix program itself have—was it directly responsible for taking away any kind of due process, or was there anything such as this before Phoenix?

Representative DRINAN. It wasn't as well organized. Phoenix was designed as a so-called falsification—later called Vietnamization. It means that in effect that we are the surrogates of the Thieu government, and that we do the work of the Thieu government, and are suppressing or opposing these political dissidents.

Senator NUNN. I would like to ask you one other question relating to your statement on page 11. You state here: "Mr. Colby has done 'intelligence' work for most of his adult life." And in the third sentence of that second paragraph on page 11 you state: "He believes in sending American citizens to other nations who will pretend that they are not employees of the CIA." Now, are you saying that that is a reason for not confirming him as head of the intelligence operations?

Representative DRINAN. May I go back and quote what I omitted when I read my testimony. Directly from the questions that were raised on July 2 with Mr. Colby, and Mr. Colby was asked: "Would you collaborate with corporations in your work abroad?" And he said—and this is at the bottom of 9—he said: "Certain structures are necessary in this country—America—to give our people abroad perhaps a reason for operating abroad in some respect so that they can appear not as CIA employees, but as representatives of some other entity." And I just raise this question: If the American people in the Congress are going to finance James Bond types like Mr. Colby suggests, I think that the elected Members of the Congress have a right to know about it. And I am just raising that question—how many people, American citizens, are there now abroad or will be abroad pretending that they are not employees of the CIA when in fact they are?

Senator NUNN. Getting back to my original question, are you saying that our intelligence network should in effect go up and have badges on or uniforms saying that we are members of the CIA; here we are, folks; we are in Germany; we are members of the CIA?

Representative DRINAN. I did not say that, Senator, I simply said that if this is going to go on I think that the Congress should know about it.

Senator NUNN. Let me ask you a question on that point. According to that, did you think that every Congressman and every Member of the Senate should have all the top secret information that relates to CIA on demand? Is that the logic of your contentions?

Representative DRINAN. The military trusts a lot of people and the State Department trusts a lot of people. They all have clearance, and there is no reason in my judgment why 535 men and women could not be given clearance.

Senator NUNN. So your answer is "Yes" on that, that every Member of Congress and every Member of the Senate on any day they wanted to find out any top secret information, no matter how crucial—

Representative DRINAN. I didn't say that.

Senator NUNN. Where would you draw the line?

Representative DRINAN. I am sorry. All I can say, Senator, is that I have not been able to learn anything about the CIA as a Member of Congress. And all I can say is that when I know what the CIA is doing and how much money they have and how they spend it, then I could make some judgment on that question.

Senator NUNN. Do you think there ought to be a line drawn somewhere? Is that the point?

Representative DRINAN. I would say so.

Senator NUNN. In other words, there is some point—you wouldn't say that every Member of the Congress should know everything going on on a day-by-day basis?

Representative DRINAN. No.

Senator NUNN. There has to be a line, and the question comes to the judgment of Congress as to where that line should be drawn. Would you agree that Congress does make that judgment, and you are really lodging a complaint against Congress rather than the CIA?

Representative DRINAN. I thought I made that clear.

Senator NUNN. I just want to make that clear. You are saying that we ourselves are derelict, you are not criticizing Mr. Colby or the CIA when you say that every member couldn't get all the information they should?

Representative DRINAN. No, the Congress has been derelict, I think that is my word, in its oversight function.

Senator NUNN. Congressman, if you were convinced that the Armed Services Committee and the Appropriations Committee in the House and Senate which have the supervision over matters relating to our national security were indeed formed—I am not saying they were, and that was hypothetically the case—and there was a balanced representation in these committees of the entire Congress, do you think that under those conditions, numbers, that they were informed, and that they did have the proper supervision, and that they were balanced committees? Do you think at that point that we could draw a logical line on the crucial information as it relates to international security?

Representative DRINAN. I am not certain of that, because there is no track record to go on. And as I mentioned, two distinguished Senators conceded that they never heard of the CIA operation in Laos. Consequently, I would have to say, I would have to have faith in that committee that they did have sufficient information.

Senator NUNN. But under that hypothetical—if they never did exist—and we could get it to exist, your opinion might change, wouldn't it?

Representative DRINAN. It might.

Senator NUNN. Mr. Chairman, I have no further questions of this witness.

Senator SYMINGTON. Before calling on Senator Hughes, I would like to read into the record, Mr. Congressman, the testimony in open session. Mr. Colby says: "I do not think it was a war when it began, Mr. Chairman. I think we were giving some assistance to the people in Laos who were resisting the North Vietnamese coming into this country."

And I said: "Well, in any case, by August 15 we will be out of it, we hope." And then is asked, "Do not large scale operations such

as the war in Laos go considerably beyond what Congress intended when it provided for other functions and duties related to intelligence?"

That is part of that previous—and Mr. Colby's reply was, "I think it undoubtedly did. And I think also that as a practical matter a covert operation cannot be a very big one, because it stops being covert when it gets too big. I think this was the lesson of the Bay of Pigs, among other things."

So that, I think, you and I would both agree with.

Representative DRINAN. I might point out that he is less direct than that in his answers to the inquiries of Senator Hughes, and I read from them.

Senator Hughes asked, "On reflection, do you think that it was wise for the CIA to get involved in such military operations in Laos?"

Answer:

The agency's operations in Laos were undertaken in direct response to Presidential and National Security Council directions in order to carry out U.S. policy and at the same time voice the necessity for uniformed U.S. involvement in Laos. These activities grew in size over the years to meet greater North Vietnamese and Laos pressure. The size to which these operations grew make it difficult to maintain normal intelligence procedures.

And then he adds, and concludes, "Despite the difficulty for the CIA, I think that the Agency fulfills the charge given it efficiently and effectively." In effect, contradicting what he said in open session.

Senator SYMINGTON. No, I can't agree with that.

Representative DRINAN. In effect—

Senator SYMINGTON. In effect—you have a problem that if he is given instructions, he has one or two things to do, based on my judgment. I spent many years in the Pentagon, and I have been on the CIA subcommittee for many years. In his case you either have to obey the orders or resign. We even decided what we would have done in a particular case. But obviously he can no longer be constructive and function if he had refused to obey his superiors. And we do have a problem in turn—for example, we have had three Secretaries of Defense since the first of the year. We went for many, many weeks without a Secretary of Air, and I don't believe we have had an Assistant Secretary of Air for several years now. And the same thing is true of the Army. We have an Acting Director of the Central Intelligence Agency, a general, who was not in the Agency until he came in as Deputy Director. And this Government, in spite of all its problems around this time, has to continue functioning. What worries me is whether or not we are discussing here the functions of the CIA. And I am the first to agree, I think they have gone beyond what could be called their charter. On the other hand, I don't want to see it taken out on an individual if he is able and experienced and understands the functioning of the Agency. I agree with you that we can hope for more thorough review of the Agency in the future. And I can say that the chairman of this committee believed that the matter should be reviewed more thoroughly than it has been in the past.

Representative DRINAN. Thank you, Senator.

May I suggest, however, that it is not certain from the testimony, which I have read and reread very carefully, that Mr. Colby does understand and appreciate and will live by the mandate of the CIA. And in another question Senator Hughes asked him, "Would you abide

by the directive of the CIA that you must keep out of all local domestic American activities?"

And Mr. Colby responded that in general he would do that. However, he goes on and says that "such actions will be taken only in the most exceptional circumstances, and with the Director's personal approval."

The statute says that they can't get involved, and yet he weasles like that.

Senator SYMINGTON. Of course we will have to have Mr. Colby back now and discuss the matters that in a democratic fashion are now being laid out before the Congress and the people.

Senator Hughes.

Senator HUGHES. Thank you, Mr. Chairman.

Congressman Drinan, you have obviously spent a great deal of time in analyzing the record, the background, and before your time in Congress you visited Vietnam as part of the study mission, and are very concerned about what is happening.

I apologize for being late, Mr. Chairman; I was tied up on other matters that were related to the committee work in another way.

But I would like to ask if the Oversight Committee of the Senate on the CIA has been placed into the record? Who knows in the Senate what is going on in the CIA? I have been told ever since I have been here that there is a committee composed of several people who actually serve as an Oversight Committee on the CIA. Is there someone other than the Armed Services Committee that does that? Does anyone on the staff know?

Representative DRINAN. The actual funding of the Central Intelligence Agency has to go through the Appropriations Committee, of course. And the five or seven senior members of the Appropriations Committee get in detail the requests for and the justifications for the money that goes to the Central Intelligence Agency.

Senator HUGHES. As the chairman knows, both he and myself are members of the Democratic Policy Committee, and we have frequently discussed some of what is happening. And I want to compliment the chairman, because he is pressed constantly and consistently for more openness and any information than at any time in the 4½ years that I have been in the Senate. He is continuously pressed for that, and I certainly think the record should show it.

I am concerned, however, because I think I heard a former chairman of the Appropriations Committee say in debate on the floor of the Senate that he himself did not want to know the actual facts, because he was afraid he might talk in his sleep. If I recall, that is the statement he made. And I think that if the chairman of the Appropriations Committee and the responsible people don't know the facts, somewhere on this Hill, I think something is wrong.

We have recently seen a very broad display of what I consider deception and deceit in relationship to this committee in the Pentagon. And I am concerned that this may permeate other areas of the governmental structure also, as I know every member of this committee must be.

Father Drinan has pressed very hard in this statement, and in many cases it is a very harsh statement, which reflects what he must feel deep within himself about a system that tolerates things like the Phoenix

program, for whatever reason. But I do believe, and I am not testifying, Father Drinan, I apologize, but I do believe that somehow we must improve the oversight of the CIA and what is happening over there, and how the money is being spent.

And, again, I compliment the chairman, because in the last Congress he pressed very hard to get the appropriations out into the open, and what we were doing with them. And I might add that we did not succeed too well with that. I supported the chairman in this.

Father Drinan, do you believe that there should be some side, some view of the facts that we are probably not going to get 535 Members of the Congress—and I agree with you—if we can trust thousands of personnel with all kinds of secret information, are we in fact saying that they are more trustworthy than the men and women the people have elected to represent them in this Government?

Representative DRINAN. I heard you make that point before, Senator, and give security clearance or deny it to Members of the Congress and make them accountable.

Senator HUGHES. I wish that could be done. Because I don't believe myself that certain members of the committee should be given information that other members are not given unless we specifically set up some sort of oversight subcommittee or special committee in the Congress of a cross-section philosophically that can be cleared to know the total of what is going on in the CIA.

Representative DRINAN. If I may say so, Senator, that was proposed way back in 1955 by Senator Mansfield. He introduced a bill for a joint committee of the House and the Senate on the CIA. He had 34 cosponsors for the bill, and it came to the Senate floor on April 9, 1956. The result was negative. The Members did not vote for it. But it seems to me that that would be a very good idea, to have Members of the House and the Senate picked and selected according to their ideology, a balanced committee, and I would be satisfied with that.

Senator HUGHES. That would satisfy your needs?

Representative DRINAN. I would assume so—the ordinary joint committee—and they would be responsible and accountable for the operations of the CIA.

Senator HUGHES. I personally feel that the people of Iowa elected me to represent their interests with the CIA as well as every other facet of Government, and that I have an entitlement to be informed. And if I am untrustworthy, then I feel the CIA ought to tell the people of Iowa and the country why I am untrustworthy and on what they base it. I would be satisfied also if the Joint Committee would be picked on such a basis to serve as an oversight committee that would have straight information on everything that we are doing in the CIA. I share your concerns about what we might be involved in around the world right now, and in the future, as well as what we have been involved in in the past. I am not relating this particularly to Mr. Colby. I am relating it as a common concern on the need to know of the American people, at least by a group of their elected representatives.

I know this is not an easy thing for you to do in testifying this way and expressing your concerns, but I commend you for having the courage to do it.

Representative DRINAN. Thank you very much, Senator.

Senator HUGHES. Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Senator.

First let me thank you very much for your gracious remarks.

Based on recent events in recent months on this committee, as far as my colleague, Senator Hughes, is concerned, I am reminded of an old phrase, "They laughed when he sat down at the piano." Now, as to the joint committee, I sit on a joint committee of the Senate and the House that you might look at at your discretion. And if you think there has been any excessive secrecy around this program, I wish you would take a look at the Joint Atomic Energy Committee, where, for example, even though they supply the warheads and pay for them, they will not allow me as a member of this committee, and acting chairman in a hearing before the Military Appropriations Subcommittee of the Joint Atomic Energy Committee which I chair, they will not allow me to bring into that Committee not only a member of my staff, but the chief of the staff of the Senate Armed Services Committee, even though the discussion is entirely about whether or not we need these weapons which will cost many billions of dollars, nor will they allow any members—

Representative DRINAN. Excuse me, Senator, who is "they?"

Senator SYMINGTON. The majority of the Joint Atomic Energy Committee, good question.

Nor will they allow my members to appear at any hearing of that committee except the open hearings—and I have never seen an open hearing when it comes to military appropriations—to bring any staff member in.

So we have a lot of things to clean up from the standpoint of not only the public's right to know but of our own right to know. They will not allow any members of my staff or any members of the Armed Services Committee staff to go over and read classified data incident to weapons unless the Senator in question or some Senator and Congressman go over and read the books while they read the memoranda in the vault of the Joint Committee. How this grew I don't know, but it was started years ago. But it is an unfortunate situation. I say that because I do believe in all honesty that we have the right setup here if we will go to work and make it work. And Senator Hughes is right, and in time I hope that more information can be obtained about just how this setup functions.

Now, back to the problem. I have known Mr. Colby for a good many years, and I do think he is an honest, dedicated, good American. I do think there are forces in the world which could endanger the security of the United States. And therefore I do think we need an agency like the Central Intelligence Agency in order to assess to the best of its ability what our possible enemies around the world are doing. If we don't, then for the first time in the history of the modern world, you might say—and I would go back several hundred years on that—it would be the first time that it was felt that such an agency was not needed.

So what I believe we are talking about now is the capability of the gentleman in question to handle the Agency in an efficient and appropriate fashion and report what he should back to the Congress what he is doing.

I would like to say to the committee that Father Drinan wrote me a letter which I was much impressed with—I don't know whether to call him Congressman Drinan or Father Drinan—the letter was im-

pressive, and I called him and asked him if he would like to testify. And, of course, we welcome his testimony here this morning.

And we are very grateful that you have come to give us your position, sir.

Are there any further questions?

Senator NUNN. I have one thing.

Senator HUGHES. I would like to make a statement in the light of what you have said.

I want to go on record as a member of this committee as saying that I am not willing to trust any one man in this country in any position without an oversight committee of some sort by this Congress being totally informed as to what he is doing and what and how he is doing it.

Representative DRINAN. I fully agree, that was the precise point of my testimony, and that now at this moment in history we should delay his confirmation until the Congress has the apparatus that we can supervise—

Senator HUGHES. Excuse me, Senator Nunn.

Senator NUNN. That is all right. This is not a question; there is something that I don't have an answer for and don't intend to, but I want to share it with you. Senator Hughes and I talked about it the other day. I think in this situation of classification, secret and so forth, we start off with perhaps overclassification, or a degree of classification that even the people involved don't have very much confidence in. And then we get to an Ellsberg situation where we have disclosure which hits the front pages, leaks, and then we have a loss of confidence all through the branches of Government, particularly the executive, in the classification system, top secret, and so forth. Then we get into a situation which is extremely dangerous, and perhaps the most dangerous part of the system, as Senator Hughes has pointed out in recent days, and that is a situation where there is so little confidence in the classification system that we do away with that and start falsifying and omitting information, which deprives even key people at the very top of the chain of command from the very essential information relating to our role in our policy. And the question is, you can't have it all ways on all parts of the circle—and it is a circle, in my opinion. And how do you draw the line, and at what point in the circle do we really start, and where does the circle end? I just leave that with you as an observation and a frustration that I have.

Representative DRINAN. Thank you, Senator. Let's begin to unravel it.

Thank you very much, Mr. Chairman and Senators. I appreciate your kindness.

Senator SYMINGTON. We are very grateful to you for appearing.

The next witness is Mr. Sam Adams.

Mr. Adams, will you rise and raise your right hand, please?

Do you swear that the information you give this committee is the truth, the whole truth and nothing but the truth, so help you God?

Mr. ADAMS. I do, sir.

Senator SYMINGTON. Have you a statement prepared?

TESTIMONY OF SAMUEL A. ADAMS

Mr. ADAMS. Yes, sir.

Senator SYMINGTON. Will you read it?

Mr. ADAMS. I will, sir.

First I would like to apologize for appearing so late, but I didn't realize that I was going to testify before this committee until relatively a short time ago.

Senator SYMINGTON. I think sometime back you said you would be ready to testify, and we said we would always be willing to hear you. Is that correct?

Mr. ADAMS. Yes, sir.

Senator SYMINGTON. Thank you.

Would you read your statement, please?

Mr. ADAMS. Yes, sir.

My name is Samuel A. Adams. I resigned from the Central Intelligence Agency on June 1, 1973. My resignation stemmed from dismay over what I thought was the sloppy and often dishonest way U.S. intelligence conducted research on the struggle in Indochina. An example of the shortcomings, I believe, was the manner in which U.S. intelligence produced reports on the political and administrative agencies of the Vietcong. These agencies, sometimes called the infrastructure, were the target of the allied Phoenix program. The Phoenix program was overseen at one time by Mr. Colby, a candidate to receive the CIA's directorship.

Seven of my 10 years at the Agency were devoted to research on our adversaries in Indochina. My reports included an extensive study on the Vietcong police system, a treatise on Communist subversive agents in the South Vietnamese Army and police, and an examination of the Vietcong's covert structure in South Vietnamese territory. In 1970, I wrote a lengthy study entitled "Guide to a Viet Cong Province" which the CIA uses as its standard field handbook on the Communists in South Vietnam. For about 5 years I gave the Agency's training course on the Vietcong to CIA case officers bound for Vietnam.

The Phoenix program is an example of a sound concept gone awry. It was meant to destroy the Communists' political apparatus, but it has not done so, and the Vietcong are in the middle of a resurgence throughout South Vietnam. Although the country's surface looks peaceful enough—at least compared to the last few years—the appearance is deceiving. Beneath the surface of the South Vietnamese Government, the unraveling is well along.

Phoenix was conceived when the Allies' main weapons in South Vietnam were American warplanes, and heavily armed battalions whose mission was to "search and destroy." The weapons were bludgeons, which all too often failed to discriminate between the enemy soldier and the innocent bystander. More important, they were virtually useless against the Vietcong political cadre, who, it came to be realized, was just as dangerous as the Vietcong warrior.

Phoenix was designed to fill the gap. Copied from a British concept which had succeeded in Malaya, the Phoenix program was meant to replace the bludgeon with a scalpel. The key to the operation was precise targeting. Instead of bombs—which killed large numbers of civilians in addition to the occasional political operative of the Vietcong—Phoenix's main tools, theoretically, were good intelligence and good files. The object of the program was to find out who among the Vietnamese population were Vietcong cadres, and to arrest or kill them. In theory, arrests were preferable to assassinations, because a

prisoner could lead to further arrests, and a cadaver led nowhere. In order to work, the Phoenix program had basic needs. These are five of the most important:

1. A clear perception of the nature and organization of the target.
2. Good intelligence concerning the names, the whereabouts, and the activities of the people who belong to it.
3. A tight, well-run police organization, with secure files, with the ability to keep close track of the population, and with a high state of training and morale.
4. An efficient and fair judicial system, with stout prisons and a rehabilitation program which could turn rebels into citizens.
5. Most important, popular support.

The trouble with Phoenix, however, and the reason it did not work, was that its needs, although recognized in theory were never fulfilled in practice. The divorce between hope and reality became so wide that the program degenerated into a game of statistics, in which numbers were paramount, and the object of the exercise—the crippling of the Communist Party—was never even approached. I will deal with the needs listed above, and unfulfilled, one by one.

When U.S. troops first landed in force in Vietnam in early 1965, we were abysmally ignorant of the nature of the threat. It was thought that the application of enough military force by the United States would eventually compel the Communists to lay off. But they didn't, and the introduction of each new American battalion only seemed to get us in deeper than we already were.

Finally, the Tet offensive demonstrated the Vietcong's ability to get large numbers of troops into the South Vietnamese urban areas without detection, and jarred U.S. intelligence into the realization that the Communists had something there besides an army. The Phoenix program—which had existed in one form or another for several years—began to take serious shape.

The initial problem was that the basic research on the nature of the adversary and of his organization was either undone or misunderstood. When the time came to designate a target for the Phoenix organization to aim at the most readily available entity was something U.S. intelligence called the infrastructure, a catchall phrase long used to describe the nonmilitary portion of the Vietcong organization. Unfortunately, the Communists themselves had no such term, and U.S. intelligence has no precise definition of what it included. It did have a number, however, 39,175, which had remained the same from June 1965 up until the eve of the Tet offensive. Although the number changed after Tet—it has ranged since then from 60,000 to 90,000—the definitional problem was never cleared up. As a result, no one knows even now who belongs to the infrastructure, and the number given out officially is the sum of the guesses from the field, made by people who have varying ideas of what they are counting. It is conceivable, using the loosely defined official criteria, that we could say the infrastructure was anywhere from 10,000 to a quarter of a million strong.

A salient problem of who to count arose from the fact that for some time the Vietcong's convert operatives in South Vietnamese territory were not included in the official lists. Thus a spy in Thieu's office—there was one—would be excluded from the infrastructure because he failed to fit the official U.S. definition. The problem was compounded

because of the reluctance on the part of U.S. intelligence to look into the matter of Vietcong subversion. For example, in May 1969, the CIA Chief of Station for Saigon indicated on a visit to Washington his belief that the Vietcong had only 200 agents in the South Vietnamese Government. He spoke from ignorance. An indepth research study going on at the same time suggested the real number of such agents was more like 30,000.

The question of the Communists' covert presence in South Vietnamese territory became particularly vexing after the coup in Cambodia in March 1970. When it occurred, most of the Communists' army in the southern half of South Vietnam left for duty next door, and large numbers of Vietcong cadres in Vietnam's Delta shifted from Vietcong to South Vietnamese territory, often by false defection through Chieu Hoi Centers. The ensuing quiet in the Delta—along with an apparent increase in the enemy's defection rates—gave rise to optimism among American officials in Vietnam, including those who manned the Phoenix program.

Although hard intelligence on the names, whereabouts and doings of Communist cadres is much sought after, it is very hard to come by. Allied files bulge with information of this sort, but in the vast majority of cases it is either false or incomplete. Things have improved since the early days of Phoenix when operations against specific targets were almost nonexistent. But the improvements have been marginal, and the latest reports from the field suggest the situation is getting worse instead of better. In any case, the type of person neutralized by Phoenix is about the same as it always was; they are mostly low-level and of little consequence. The hardcore party member is still uncaught.

The South Vietnamese national police and Military Security Service—both of which work for Phoenix—are better now than they were, say, in 1966. But the base was so low that it is difficult to conceive that they could have gotten worse.

The problem here is much more complicated than simply low morale—which recent reports suggest is endemic among the South Vietnamese constabulary. The most trying aspect of the situation is the Vietcong's continued penetration of the South Vietnamese security apparatus. Captured documents indicate that many hundreds of South Vietnamese policemen are in reality Vietcong agents. The penetrations occur at all levels. A government rollup which took place in northern South Vietnam in 1971, show the dimensions of the problem. Among those reportedly apprehended as Vietcong agents were the chief of police of Da Nang City. The chief of the police special branch, and his assistant for operations, and the chief of police for I corps. The first three were jailed. The last, after evidence proved insufficient for conviction, was reputedly transferred to Saigon as a police adviser to the Phoenix program.

Although the American advisory effort to Phoenix contained no Vietcong agents, it often was of questionable help. One of its main shortcomings was the ignorance of most advisors of the Vietcong target. Prior to August 1968, the average CIA case officer received no training whatsoever in the organization and methods of operations of the Communist structure. Then, in late 1968, a training program started up which by the end of the year gave those bound for Vietnam, 24 hours of instruction. This was rapidly cut back. The number of

hours in the Vietcong target now given to CIA case officers going to Saigon is four.

An ancillary problem is the one of population control. Despite many attempts over the last 5 years, there is still no adequate ID card system in Vietnam, and large numbers of persons, particularly in the slums, roam about without the police knowing who they are. Likewise, the Phoenix system has yet to devise as mundane a thing as a catalog of fingerprints. If, say, the U.S. Ambassador was killed tomorrow, and the gun was found which accomplished the killing, there would be no way to trace the assassin, from the prints on the gun.

South Vietnamese prisons continue to leak, although not as badly as a few years ago. Still, the average Vietcong captive—unlike the common criminal—will likely go free within a very few months. Again, one can point to improvements, but the basic problem remains that the accounting system which comes into play after a suspect's arrest is so loose that it is often very difficult to tell what happens to him shortly thereafter. In several areas of Vietnam, at present, the system has broken down completely, so that Communist prisoners in these areas frequently fail to go to prison at all.

Furthermore, there is an almost complete lack of a rehabilitation system. The old saw that the most dedicated Vietnamese Communists have usually done time, continues to have a ring of truth. Captured documents still show that those who leave South Vietnamese prisons frequently rejoin the Vietcong organizations after their release from jail.

But the biggest single drawback to the Phoenix program is that except in a few areas it lacks popular support. What this boils down to is the reluctance of the average South Vietnamese citizen to turn in a Vietcong cadre when he encounters one. Whether the reluctance stems from fear or admiration of the Vietcong, it amounts to the same thing; that is, the extraordinarily large Vietcong apparatus continues its covert existence in South Vietnamese territory.

In connection with my statement to your committee, I respectfully put forward three conclusions:

1. The Phoenix program largely failed to come to grips with basic problems, and claimed improvements were so marginal as to be of little consequence. Perhaps doomed from the start by built-in flaws, the program's problems were worsened by such shortcomings as woefully insufficient training.

2. The game of statistics into which Phoenix plunged allowed the U.S. Government to conjure a picture of progress arose from such factors as the exit from South Vietnam in 1970, of most of the Communist army, and the transfer of large numbers of Vietcong cadre to so-called government territory, where even today they operate unrecorded by Phoenix statisticians.

3. The faulty execution of the program, which was expensive and didn't work, demonstrates once again the need for congressional scrutiny of the CIA. Until Congress begins to inspect closely what the CIA is up to, we may expect further questionable programs such as Phoenix.

That is the end of my prepared statement, sir. I have another codicil that I would like to add to it if I might.

Senator SYMINGTON. How long is it?

Mr. ADAMS. Two of these pages.

Senator SYMINGTON. Didn't they tell you the rules of the committee, that when it comes to prepared statements we would like 24 hours' notice?

Mr. ADAMS. Yes, they did, but I had such short notice.

Senator SYMINGTON. Do you have a copy of it?

Mr. ADAMS. It is still handwritten.

Senator SYMINGTON. If you only had a short notice, we had short notice too, because we didn't know you wanted to testify.

Who asked you to testify?

Mr. ADAMS. Senator Kennedy's office, sir.

Senator SYMINGTON. He is not a member of this committee.

Mr. ADAMS. No sir, he is not, sir. But on the other hand, I didn't find out—

Senator SYMINGTON. I understand, I am not being critical but the short notice had nothing to do with the staff of this committee.

Mr. ADAMS. Absolutely not, no sir.

Senator SYMINGTON. How long is your additional statement?

Mr. ADAMS. It is three of those pages.

Senator SYMINGTON. Will you proceed?

Mr. ADAMS. Thank you very much, sir.

I would like to attach this codicil to my main statement. It has to do with Cambodia, and what I believe was the deliberate fabrication of statistics of the Khmer Communist order of battle by the CIA. I made allegations concerning the fabrication to the CIA Inspector General in December 1972, and I was told that Mr. Colby was aware of the allegations. As far as I can determine, no attempt was made to investigate the charges.

The circumstances of the fabrication are as follows:

I would respectfully like to lay out the circumstances of what I believe was a fabrication.

Senator HUGHES. Would you restate that again clearly? You are talking about a fabrication of CIA statistics?

Mr. ADAMS. Yes sir, that is correct.

Senator HUGHES. I want to make sure I understand what you say.

Mr. ADAMS. On the Khmer order of battle, that is, how many Khmer Communist soldiers are in Cambodia?

As I said, I would like to lay out briefly what I believe is the circumstance of the fabrication.

Between April 1970 and June 1971, was a range of from 5,000 to 10,000. The range remained constant during this period because no one within the U.S. Intelligence Community was looking at the problem or investigating how large the Khmer Communist Army was.

A memo written by the CIA in May 1971 in fact gave us this range of 5 to 10,000 as the official number.

In June 1971 I wrote a memorandum of approximately 40 pages based on a review of all available evidence on the matter of the Khmer Communist army. Within a week or so the paper was killed, I was threatened with firing, and told to work on weekends for the foreseeable future. I did so, that is, I worked a 7-day week throughout the summer of 1971.

Senator SYMINGTON. Who told you that?

Mr. ADAMS. My immediate supervisor, sir.

Senator SYMINGTON. What was his name?

Mr. ADAMS. Harold Ford, sir.

Senator SYMINGTON. What was his position?

Mr. ADAMS. He was head of the special research staff to which I belonged, sir.

Senator SYMINGTON. In Washington?

Mr. ADAMS. Yes, sir—well, largely.

Senator SYMINGTON. Thank you.

Mr. ADAMS. In 1971 I would respectfully submit, sir, that this was one rare instance in which an intelligence analyst was punished during time of war for finding an enemy army.

Right after the paper was removed from my control the job of researching the order of battle was assigned to an analyst who had never worked on Cambodia, and who had never worked on combat order of battle. I would put in parenthetically, sir, that I had worked on Cambodia for a long time, and on orders of battle for several years, often as the CIA's only order-of-battle analyst.

The day the new analyst was given the job of researching the order of battle for the Khmer Communists, he was also given a range to come up with, that is, a range of from 10 to 30,000. He was instructed to come up within that range.

The new analyst took 5 months to devise a way to come up with the assigned range. In November 1971, that is, 5 months later after this analyst was told to do this, the CIA finally released its official order of battle. The number in the official order of battle was a range of 15 to 30,000, that is almost precisely the range given the analyst 5 months before.

The present Khmer Communist order of battle, approximately 50,000, is derivative of the old number, that is, the 15 to 30,000. I respectfully submit that it understates it. And I would make the observation that U.S. Intelligence currently asks us to believe that the Cambodian Government Army of 200,000 outnumbers the Khmer Communist Army about 4 to 1 since Phnom Penh seems about to fall. I would suggest that the order put forth by U.S. Intelligence are something of an anomaly.

I would also like to note that I am in the process of laying out a much more detailed account of what happened, which will include names, dates, and who did what to whom.

In any case, I submitted the detailed oral complaint to the CIA Inspector General on the matter. The Inspector General, or rather his assistant, took lengthy notes on what I had to say. A day or so later—in December 1972—I was told that Mr. Colby, the Executive Director, had been informed of my complaints, and that he had said concerning the complaints, let the chips fall where they may.

Senator SYMINGTON. Who said that now?

Mr. ADAMS. I was told that Mr. Colby said that.

Senator SYMINGTON. Who told you that?

Mr. ADAMS. It was another—it was either Mr. Breckenridge or a Mr. Greer of the Inspector General's Office, I forget which one it was.

Senator SYMINGTON. Inspector General's Office of where?

Mr. ADAMS. The CIA, sir.

Senator SYMINGTON. Will you find out who told you that and report to this committee?

Mr. ADAMS. I will.

Senator SYMINGTON. Check your memory. You see, that is a personal attack against a nominee by hearsay.

Mr. ADAMS. Well, this isn't an attack against the nominee.

Senator SYMINGTON. I think it is. We just have a difference there. But as long as you mentioned that somebody told you what he said, I would like to know who it was, so that we can question him.

Mr. ADAMS. Fine. Thank you, sir. It was either Mr. Breckenridge or Mr. Greer.

Senator SYMINGTON. You find out who it was and let us know.

Mr. ADAMS. Yes sir. Thank you very much.

As far as I can tell, only two things happened concerning my complaint, which as far as I was able to determine was never looked into. The first time was during my testimony before the Defense of the Ellsberg trial in March 1973. The matter of my complaint over the Khmer Communist order of battle was brought up by the prosecution. The prosecutor, Mr. Nissen, used my trip to the CIA Inspector General in order to impeach my testimony as a witness. He said that this showed that I was a chronic complainer.

The second time—and I cannot be sure that this is directly connected—was after my return from the Ellsberg trial. I was told that my employment at the CIA was about to be terminated, although eventually the Agency backed down. I have reason to believe that persons who proposed my termination, that is, fired me, were those who were responsible for fabricating the Khmer Communist order of battle.

That is the end of my codicil.

Senator SYMINGTON. Will you repeat that about the people being fired?

Mr. ADAMS. Right after I came back from the Ellsberg trial, sir, I was told that my employment with the Agency was about to be terminated. I made several attempts to try to find out who it was that was putting me on the list to get fired. I was unable to find out. But I believe that it was probably the people who had been responsible in my opinion for fabricating the Khmer Communist order of battle.

Senator SYMINGTON. You said in your statement—you were reading from a supplementary statement—that you got up in the last few hours—

Mr. ADAMS. That is right, sir.

Senator SYMINGTON. You said in your statement that you resigned in the Central Intelligence Agency on the first of June.

Mr. ADAMS. That is correct, sir.

Senator SYMINGTON. So whoever attempted to fire you did it before that time; is that correct?

Mr. ADAMS. That is correct, sir.

Senator SYMINGTON. Why did they fail? Didn't they have the authority to discharge you?

Mr. ADAMS. Oh, yes, they did have the authority to discharge me.

Senator SYMINGTON. Why did they change their minds?

Mr. ADAMS. I have never really been able to find out. I tried to find out and couldn't.

Senator SYMINGTON. How did you try to find out?

Mr. ADAMS. I wrote a number of memoranda asking why.

Senator SYMINGTON. You see, in the years that I have been connected with the CIA in one way or another I have had many what you call disgruntled employees of the CIA get in touch with me. And that is also true in business, and it is also true in any governmental agency. And I was just wondering if you were saying that you were notified that you were fired. But in your previous statement you said you resigned.

Mr. ADAMS. Yes, sir; I was notified that I was fired, and I was unable to find out who was trying to give me the sack. And then I threw in the sponge and quit.

Senator SYMINGTON. You testified before the Foreign Relations Committee; did you not?

Mr. ADAMS. That is correct, sir.

I get these confused. Does that mean House or Senate?

Senator SYMINGTON. Senate.

Mr. ADAMS. No, sir, I haven't. I testified in front of the House.

Senator SYMINGTON. Somebody told me that you testified before the House.

Is it fair to say that the thrust of your testimony is that the Phoenix program is not particularly effective for good or for ill?

Mr. ADAMS. That would be the thrust of my testimony, yes, sir; that it was ineffective.

Senator SYMINGTON. Was one important objective of the Phoenix program to coordinate various types of legitimate intelligence activities?

Mr. ADAMS. That is correct, sir.

Senator SYMINGTON. Was the Phoenix program more successful in acquiring intelligence not subject to abuses in some regions of Vietnam to a different degree than in other regions?

Mr. ADAMS. I think that is a correct statement; yes, sir.

Senator SYMINGTON. If so, what accounted for those differences if they occurred during Mr. Colby's tenure?

Mr. ADAMS. I suspect it is the same as you can say about anything, some people in some areas are better than others in other areas. Also there is the matter of degree of penetration in the Da Nang area, where the Viet Cong in essence ran the cops; things didn't go very well. And in other areas where they didn't run the police things went better.

Senator SYMINGTON. Do you have any specific evidence about Mr. Colby's conduct of the Phoenix program?

Mr. ADAMS. No, sir; I do not, except insofar as the reports came back from the Phoenix program which I read.

Senator SYMINGTON. You have been in Vietnam yourself quite a lot?

Mr. ADAMS. Yes, sir, I have been on four temporary duty assignments in Vietnam, yes, sir.

Senator SYMINGTON. One thing that worries me about all this is that I still believe we need an intelligence agency.

Mr. ADAMS. So do I, sir.

Senator SYMINGTON. Do you agree with that?

Mr. ADAMS. Absolutely.

Senator SYMINGTON. And whereas the FBI over 30 years has been very successful in building up a superb public relations department, it is difficult if not impossible for the Central Intelligence Agency to

have such a department based on the nature of its work. You agree with that; don't you?

Mr. ADAMS. Yes, sir.

Senator SYMINGTON. And therefore when something happens like the killing of an agent, or perhaps the finding out about the raiding of a doctor's office, everybody looks around and says, well, there is only one place we believe we can dump this, and that is the CIA. Would you agree with that, that that has happened in the past?

Mr. ADAMS. Yes, sir.

Senator SYMINGTON. And it is very difficult for the Agency itself to answer such criticism as against the public relations departments of the Services, you would agree with that, would you not?

Mr. ADAMS. Yes, sir, it is easier than the Services.

Senator SYMINGTON. I am thinking about the assassination of an agent. And the story was given to the American people through the press that the CIA did it. And being a member of this subcommittee, I went to work to find out what actually happened. And I found out that the CIA recommended urgently that the agent in question not be killed. Do you remember that incident?

Mr. ADAMS. Yes, sir, I do.

Senator SYMINGTON. Do you know the details of it?

Mr. ADAMS. Not the absolute details, but more or less as you put it.

Senator SYMINGTON. If you had said yes, I would ask you, because I am confident—I don't remember what you just said, the staff said something to me, but I know that your answer would have been what you stated if you did know the details of it. You have no reason to doubt that?

Mr. ADAMS. I have no reason to doubt either as you said it or what I remember at the time.

Senator SYMINGTON. Do you know of any domestic intelligence checks by the Central Intelligence Agency specially against any Member of Congress? This question is being asked for Senate or House.

Mr. ADAMS. I know that the CIA has people such as businessmen or missionaries that are coming back from foreign countries.

Senator SYMINGTON. I didn't hear that.

Mr. ADAMS. The CIA has people to question, say, businessmen or missionaries or something that come back from foreign countries. But as I understand your question, I think it has to do with whether they spy on Senators—I don't know.

Senator SYMINGTON. Let me repeat the question. Do you know of any domestic intelligence by the CIA especially against any Member of Congress.

Mr. ADAMS. I know of no domestic intelligence against Congressmen, nor do I know of any domestic intelligence in the sense that it is trying to find out something that is going on in the United States. However, there is an intelligence processing going on locally within the country.

Senator SYMINGTON. You wouldn't object to an intelligence agency questioning American citizens who have returned from a foreign country?

Mr. ADAMS. No, sir, not at all.

Senator SYMINGTON. Under the organization in South Vietnam at the time did the man who was the head of the position held by Mr. Colby have operational control over American military units?

Mr. ADAMS. I don't believe he did, sir, in the sense that he could tell the First Division to move in a certain area, no sir.

Senator SYMINGTON. You see, that is a very important question to me, because I happen to know in a case that I just saw that when they got caught they dumped it on the CIA, and they dumped something that was exactly against what the CIA recommended. And ultimately the agent in question was allowed to leave the Services, but he was not dishonorably discharged, the one who carried it out. I think that you probably know what I am talking about now.

Mr. ADAMS. I know what you are talking about.

Senator SYMINGTON. Will the killing of prisoners or other atrocities committed by military units be the type of thing which the Commander of the Corps could just order to be stopped and it would be stopped.

Mr. ADAMS. Yes, I am sure that he could order that not to occur and could not.

Senator SYMINGTON. If he ordered it not to occur do you think that the South Vietnamese would have obeyed that order?

Mr. ADAMS. No, sir.

Senator SYMINGTON. Are you primarily critical of the Phoenix program because it was ineffective or because it was cruel?

Mr. ADAMS. Primarily because it was ineffective. But also I suppose you could say that I would criticize it for cruelty as well. And that has to do with its ineffectiveness. But the cruelty, I think, was accomplished mostly by the South Vietnamese rather than the Americans.

Senator SYMINGTON. Now, in your first statement that you presented, Mr. Adams, you did not take a position for or against the nomination of Mr. Colby to be Director of the Central Intelligence Agency, but in the second statement my impression is that you have taken that position, is that correct?

Mr. ADAMS. No, sir. As a matter of fact, I don't think I am taking a position on whether I think Mr. Colby should be nominated or should not be nominated. I have certainly heard good things of Mr. Colby as well as bad things of Mr. Colby.

Senator SYMINGTON. That is the purpose of this hearing.

May I say that with much that you say I am in agreement?

Mr. ADAMS. Yes, sir.

Senator SYMINGTON. And I think that the program is very badly handled, and I think much too much of it was kept unnecessarily secret from the American people by the administrations that were involved.

I turned against this war many years ago, long before the President. And I have so stated in speeches to the Senate. So we don't have that problem about the conduct of the war. The purpose of this hearing is the qualifications of this man who has been nominated to be Director. Among them and much of the testimony—we have had many people commend this recommendation. And we have also had other people who opposed it. And I was just wondering how you felt about it, because that is the basic purpose of this hearing.

Mr. ADAMS. I suppose vis-a-vis that question, I really feel unqualified as to Colby, whether he is a good or bad man. However, I would tend to agree with what I was told of Senator Kennedy's position; namely, that a matter of this importance needs a good deal of looking

into, more than I think he felt was being done in those hearings on Mr. Colby's nomination. It is my opinion, for what it is worth, that something which is as keen as the Director of Central Intelligence needs a great deal of looking into, a job like that, and that very often people tend to be glib either in their recommendations or in their disapproval of the candidate in question.

Senator SYMINGTON. You constantly refer to Senator Kennedy. May I say that I have the greatest respect for Senator Kennedy. But he was not in the executive hearing that we had on Mr. Colby after we had the open hearing. And I was much influenced by Dr. Schlesinger's unqualified recommendation of Mr. Colby. Because Dr. Schlesinger became Chairman of the Atomic Energy Committee and did more in less time to put that committee under proper civilian control in my opinion than anybody, he did more in a few months than anybody had done in many years. And after that he went into the Central Intelligence Agency, and he reorganized it, and he let a good many people go that he felt were unnecessary. And he was in the process of attempting to do a job from the standpoint of the taxpayer. And it was his recommendation of Mr. Colby that had a great deal to do with my believing that he would be a proper man for the job.

And I would ask you this question. Do you know of anything specific against Mr. Colby that you think disqualifies him for the position?

Mr. ADAMS. I know of nothing specific, no sir. I threw in that codicil to show that I have heard something. And I, of course, can't tell what Mr. Colby had to do with any of that business, so I can't say one way or the other whether he is at fault. I have submitted a number of complaints over the years—this is the problem I have had—I have submitted a number of complaints over the years to the Agency. And usually what happens is that that very little occurs. So no so-called facts are ever established.

Senator SYMINGTON. And then as I understand it anybody in the Agency who would be in a position to be Director you would be worried about because of the past activities of the Agency, is that correct?

Mr. ADAMS. That is correct, sir. Over the years I have seen, particularly concerning Indochina and South Vietnam, a great many instances of what I believe are fabrications of statistics, and very questionable practices having to do with research. And I have grown over the years to have a very uneasy feeling about the hierarchy of the CIA. And this included Mr. Helms.

Senator SYMINGTON. So you would say that there is nobody in the CIA who is fit to be Director?

Mr. ADAMS. No, I wouldn't say that at all.

Senator SYMINGTON. Who have you got in mind that you prefer?

Mr. ADAMS. I have no one in mind that I would prefer. And I say I don't believe that is a direct attack on Mr. Colby. But it is my belief that I think the Congress should be very careful about the person that they put at the top.

Senator SYMINGTON. Then this hearing gives us the opportunity to investigate your apprehensions about past functions of the Agency, is that correct, more than it has to do with confirmation or lack of confirmation of Mr. Colby?

Mr. ADAMS. Yes, sir. But I think the two matters are not unrelated, that because Mr. Colby was for a long time right close up to the top—

Senator SYMINGTON. How many years have you been with the Agency?

Mr. ADAMS. I was there 10 years, sir.

Senator SYMINGTON. And in all of the 10 years you can't remember anybody that you think would be a good director?

Mr. ADAMS. For all I know, Colby might be a good one, sir.

Senator SYMINGTON. I just thought maybe you had somebody else in mind.

Mr. ADAMS. No, sir; I am not running for the job myself.

Senator SYMINGTON. I have been asked by the staff to ask this question and clarify a previous question. Could the Director of Cords directly give orders to U.S. soldiers, and would he have to make a recommendation to the U.S. military commanders?

Mr. ADAMS. I would imagine that he would have to make a recommendation to the U.S. military command.

Senator SYMINGTON. Thank you.

Senator NUNN.

Senator NUNN. Mr. Adams, were you here a little while ago when Congressman Drinan was testifying? Did you hear Congressman Drinan's testimony immediately preceding your own?

Mr. ADAMS. I wasn't listening, sir, I was scribbling this stuff down.

Senator NUNN. He made a couple of statements based on your past experience that I would just like to ask you about, based on your statement. On page 2 of his statement he says that many political prisoners under this program did not receive trial, and that many of them remained for months and years in prison merely because of the petition of local officials. And also I believe in one of your statements one of the criticisms of the Phoenix program is that the jails leak, they come out as soon as they go in.

Mr. ADAMS. Yes sir, but they leak the wrong people. Whereas a hardened Communist cadre had a whole system pulling for it, the Vietcong program apparatus, the average poor guy that was thrown in there for political reasons usually didn't, and it would be more likely these guys that might end up in the pokie for years, whereas the hard core Communist would be more likely let loose.

Senator NUNN. Was that under the jurisdiction of the South Vietnamese primarily, when they got out of prison?

Mr. ADAMS. Yes, sir.

Senator NUNN. The CIA didn't have any jurisdiction over that, did they?

Mr. ADAMS. The CIA had no direct jurisdiction, no sir.

Senator NUNN. One other question relating to the Congressman's testimony. Although he didn't directly state it, he implies—and he later altered this to some degree—that there should be a committee that would have some supervision over the CIA in Congress. But based on your experience do you think that every Member of the Congress should be briefed at their request on every kind of top secret information in the CIA?

Mr. ADAMS. That is a very broad question, sir. I think on most things of substance, yes. What I mean by substance, if a Senator or Congressman is interested in knowing how many missiles the Russians have, and how we came about the estimates, I think that any Senator or Congressman should have every right to get that type of information. However, if the way we got the information was from some hypothetical spy in

the Kremlin, and the Senator asked the guy's name, I don't think that that is the kind of thing that should be released.

Senator NUNN. You are drawing the line between the method of procuring the information and the information itself?

Mr. ADAMS. That is right.

Senator NUNN. I would like another comment from you on the Congressman's statement. And I quote directly:

I do not want to have a Director of the CIA who for whatever reason by his own admission was unable or unwilling to guarantee to South Vietnam citizens the basic due process.

Is that also your criticism, or do you agree with that?

Mr. ADAMS. No sir, I think I tend to agree with some of the comments that were made, or at least the way the questions were put, from the committee, namely, that it is very hard for us to control what the South Vietnamese are going to do. We can plug for it, but there is not much we can do when a man is deprived of his rights.

Senator NUNN. So you wouldn't criticize Mr. Colby on the ground that he should have guaranteed everybody due process in South Vietnam?

Mr. ADAMS. I think one could make the criticism, although I wouldn't be the one to do it, that maybe he didn't pull hard enough for that type of thing. But he hasn't the ability to get a South Vietnamese cop to stop hitting a guy over the head with a truncheon.

Senator NUNN. One other question on this particular testimony: Do you think it is necessary for the CIA agents throughout the world to have a cover, so to speak, or should they identify themselves as CIA?

Mr. ADAMS. I think you have to have cover. You mean with a CIA sweatshirt?

Senator NUNN. You wouldn't agree that they should wear badges or uniforms or identify themselves as CIA?

Mr. ADAMS. It would make it very difficult to be a spy that way.

Senator NUNN. You wouldn't agree with that criticism that the Congressman had of the CIA agents of Mr. Colby?

Mr. ADAMS. I wouldn't agree, if that is how it was put.

Senator NUNN. I get the impression throughout your testimony—and correct me if I am wrong—that your major criticism of the Phoenix program was the ineffectiveness and inefficiency of it. Is that generally the right impression that I have?

Mr. ADAMS. I don't think I would put it that narrowly. I think when it was conceived it was a great idea and everything. But it wasn't looked into, what we were trying to do there. And a great deal more thought should have been given to it, even whether the darned thing should have been started up at all, or whether it was worth a candle. In other words, my criticism wouldn't be simply that we weren't good enough in putting away Vietnamese in the pokie, but that maybe we should have given a great deal more thought to what the problem was. And I would again bring out what to me is an astonishing piece of information, that the CIA chief of station in May 1969 only thought that there were 300 agents in the South Vietnamese Government, he had never looked. And that blew my mind then and it blows it now.

Senator NUNN. I notice somewhere here, I don't know where it is, you said that instead of 300 that later estimates were about 30,000 in the government, is that right?

Mr. ADAMS. Yes sir.

Senator NUNN. They have got a big government, then. What percentage of the government would that be?

Mr. ADAMS. That always includes the Army, which would be part of the government.

Senator NUNN. It would be a large percentage, though, wouldn't it?

Mr. ADAMS. It would be over 1 percent.

Senator NUNN. And that was an estimate that was made?

Mr. ADAMS. Yes, sir; it was an estimate based on extrapolations from captured documents.

Senator NUNN. Do you have any idea what year that estimate was? How close was that to the original 300 estimate in time period? Was that recently?

Mr. ADAMS. It was practically contemporaneous. The CIA Chief of Station made the statement in May 1965. The estimate was come up with within a couple of months. But the material on which the estimate was based of 30,000 has been available for years.

Senator NUNN. So that was a criticism basically of whoever was the head of the station had estimated it, that would be a criticism directed at him?

Mr. ADAMS. It would be a criticism directed at him. But also a criticism of the Agency at large.

Senator NUNN. Lack of coordination?

Mr. ADAMS. And again that is narrowing the criticism. The overall criticism is that we were in a war in which our allies' government was so penetrated with Communist spies and subversive agents that it was practically ineffective. And we had not looked into the matter of whether these guys existed; nobody had done a study before that at all.

In this connection I would bring up one other matter, that in February 1966, when I was doing a study on the Viet Cong police, I was in Saigon. And I asked the head of the CIA counterintelligence apparatus—I was inquiring of the head of the CIA's counterintelligence apparatus in Saigon about the Communist security service. The Communist security service is the VC's equivalent of the KGB, that is the Soviet Union Secret Police. And this guy, the head of the CIA staff, the counterintelligence staff in Saigon station, had not heard of this. And this was the CIA's principal enemy in South Vietnam—again, to me a mind-blowing episode which illustrates the lack of research and forethought.

Senator NUNN. I notice in here that you imply very strongly that they should have had a fingerprint system and much tighter police security in South Vietnam. How would we have implemented a fingerprint system at that time?

Mr. ADAMS. We tried to do it, but I think it never got off the ground because there were so many Communist agents in there trying to screw it up. Everybody that has an ID card in South Vietnam, as I understand it, has his prints on it. And yet there was no central filing system back in Saigon where those prints could be retrieved.

Senator NUNN. Basically your testimony is not that we had a cruel, tough, efficient Phoenix program, but that we really had a weak, clumsy, inefficient Phoenix program; isn't that about it?

Mr. ADAMS. Well, without trying to say that we should have a cruel—I forget you put that first business—but I would agree with the

second part of your statement, that we had a very ineffective, very clumsy, very badly managed system going, and it didn't work.

Senator NUNN. The real gist of it is that your criticism of the program is almost exactly opposite of Congressman Drinan's, isn't it?

Mr. ADAMS. Not necessarily, sir.

Senator NUNN. You wanted a tighter police system of fingerprints, ID cards, and so forth and so on, which is certainly a tighter system and much more dictatorial in a police state than the program was itself. And he criticized it on the basis of the detention. I might just ask you the question: Do you believe in this detention method that was used?

Mr. ADAMS. I certainly think it is better than killing the guy. However, I wouldn't like to put myself in opposition to what he said, because I think a great deal of what he did say made an enormous amount of sense.

Senator NUNN. Have you all coordinated your testimony?

Mr. ADAMS. I have never met the man, and I don't know what he looks like. I passed him in the hall.

Senator NUNN. The first page of your statements indicates that you know that the Phoenix program was implemented as a scalpel rather than a bludgeon.

Mr. ADAMS. That is right.

Senator NUNN. And it was implemented as an alternative to what you described—

Mr. ADAMS. It was the alternative to the passive search to destroy where you just herded everybody; it was more of a selective thing.

Mr. ADAMS. Yes, I think that is the case.

Senator NUNN. And do you consider it as an alternative to that kind of a search to destroy, that it was in effect less cruel than the search-and-destroy type?

Mr. ADAMS. Yes; it killed a lot less people, and certainly it was less cruel than the bombing.

Senator NUNN. Both of them were cruel, but the degree of cruelty were less than the alternative?

Mr. ADAMS. That is correct. I think as it came to be implemented there were many of the problems which arose which the Congressman was complaining about.

Senator NUNN. Mr. Chairman, I am through with this line of questioning. But I would like to go into some of his supplement statement, although I haven't had a chance to examine it.

Senator SYMINGTON. Would you leave us the supplemental statement and come back at 2:30?

Mr. ADAMS. You mean have it typed up?

Senator SYMINGTON. No, you can give it to us the way it is and we handle that part of it.

Mr. ADAMS. All right. What I said in the record was not precisely what was here. I was using this as a copy.

Senator SYMINGTON. Let's do it anyway you would like to do it. But let us know what you think in the supplemental statement. Thank you.

We will recess and at 2:30 we will return.

[Whereupon, at 12:10 p.m., the committee went into executive session.]

NOMINATION OF WILLIAM E. COLBY TO BE DIRECTOR OF CENTRAL INTELLIGENCE

FRIDAY, JULY 20, 1973

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to recess, at 2:35 p.m., in room 235, Richard B. Russell Senate Office Building, Hon. Stuart Symington (acting chairman).

Present: Senators Symington (presiding), and Nunn.

Also present: John T. Ticer, chief clerk; R. James Woolsey, general counsel; John A. Goldsmith, Francis J. Sullivan, professional staff members; Doris Connor, clerical assistant; and Katherine Nelson, assistant to Senator Symington.

Senator SYMINGTON. The hearing will come to order.

Is Mr. Adams here?

Senator Nunn, you said that you had some questions.

Senator NUNN. I just have a few more, Mr. Chairman.

I just got a copy of the supplemental statement.

Mr. ADAMS. Sir, I wonder if in deference to the committee I might clear up three points that I think came up in this morning's testimony, sir, very briefly.

Senator SYMINGTON. Let's see what you have to say first. Have you got any statement there you would like to make? That is our standard rule.

Mr. ADAMS. Scribbled notes.

Senator SYMINGTON. No volunteer statements; you have to show it to us 24 hours before.

Mr. ADAMS. Scribbled notes.

Senator SYMINGTON. Then will you just supply it for the record, because we have other witnesses that we want to question.

Mr. ADAMS. Very well.

Senator NUNN. In the supplementary statement which I have now gotten, you say:

In June 1971, I completed a memorandum about 40 pages long, which was based on a review of all available evidence. Shortly after I handed the paper in it was killed. I was threatened with firing and told to work on weekends for the foreseeable future.

Who told you that?

Mr. ADAMS. The paper was killed about a day or so after I handed it in. In other words, I was told that the typed paper would never see the light of day. That came from several sources. The threat of firing

came the day after I handed the paper in. It was by Mr. Harold Ford, I believe.

Senator NUNN. Harold Ford?

Mr. ADAMS. That's right.

Senator NUNN. Why was he going to fire you? Did he say?

Mr. ADAMS. The way it was phrased, he said, "If you insist on pushing this kind of stuff you are going to find yourself out in the streets."

Senator NUNN. What was that 40-page report? I am not at all clear on it from your statement. Was it taking issue with the previous report that the Agency had made?

Mr. ADAMS. Well, the previous Khmer Communist order of battle, as I mentioned in paragraph 1 there, was a ring of 5,000 to 10,000. And where that had originally come from was the Cambodian G-2, that is, the Cambodian Government intelligence. And they came up with this ring right after the coup which overthrew Sihanouk in March 1970. And the U.S. intelligence when asked how many Cambodian Communist soldiers there were, we said there were 5,000 to 10,000. Nobody ever questioned or even looked at the number. And what happened was that I sat down in May of 1971 and discovered that this number had never been looked at before, and thereupon drew together all available evidence concerning the size of the Cambodian Communist military structure. I wrote this 40-page paper which came to the conclusion that the number was not 5,000 to 10,000 as the official order of battle put it but 100,000 to 150,000.

Senator NUNN. What I don't understand, are you saying that the CIA doesn't want their analysts to in any way critique previous reports?

Mr. ADAMS. I am saying that it happened in this particular case, they didn't like the finding that I had come up with.

Senator NUNN. Has that ever happened to you before?

Mr. ADAMS. Yes, sir.

Senator NUNN. You mean you simply submit a finding, and if they don't like it they say they are going to fire you?

Mr. ADAMS. Well, that is the first time they have ever said they were going to fire me. In August 1966, I looked for the first time at the Vietcong order of battle, which at that time was listed as 275,000 men. I discovered that the Vietcong order of battle was divided into four parts, and that three of the four parts had not been looked at for a period of some years. I looked at the three neglected parts and came to the conclusion that the overall order of battle was not 275,000, but 600,000. And I discovered in the last part of 1966, that is, from August on, that every paper I wrote on the subject was killed. So I had had some previous experience with this kind of business. And then eventually the CIA came to accept the findings I had made in 1966.

Senator NUNN. Who was pushing the 10,000 to 30,000 figure? Do you know anybody that had a reason for pushing it? What is the motive behind this? I don't seem to know what the motive would be.

Mr. ADAMS. I believe that there was a motive—of course, I can't really tell the motive, because I am not the person that did this, but my suspicion is that, point one, there was embarrassment on the part of the CIA research hierarchy that they had not looked at the size of the Cambodian Communist structure for a period of some 15 months, never even looked at it. And the reason that they assigned this number

of 10,000 to 30,000 was that it is not that much dissimilar from the old number, the 5,000 to 10,000, it just looks like there is a gradual rise.

Senator NUNN. Who was the person that said they were going to fire you now because of this report?

Mr. ADAMS. His name was Mr. Harold Ford.

Senator NUNN. Is he still with the agency?

Mr. ADAMS. Yes, sir. I don't think, however, that he was the one who—

Senator NUNN. Initiated that? Who do you think was the one who initiated that? Do you have any way of knowing?

Mr. ADAMS. I have no way of knowing that. I have had a number of run-ins with the research hierarchy. My suspicion was that it would be Mr. Edward Proctor, who runs the research department of the CIA, or his deputy, Mr. Paul Walsh.

Senator NUNN. On the other subject, on page 3 of this—of course you don't have the same page number, I suppose—you say:

In any case, I submitted in December 1972 a detailed oral complaint to the CIA Inspector General on the matter. The IG official took lengthy notes on what I had to say.

Mr. ADAMS. Yes, sir.

Senator NUNN. A day or so later he told me that Mr. Colby, then the CIA Executive Director, had said vis-a-vis my complaint, "Let the chips fall where they may."

Mr. ADAMS. Yes, sir.

Senator NUNN. I don't know whether that is good or bad. I don't know what he meant by that. Do you have any idea what he meant? Did you put that in here? Does that mean he wants another investigation?

Mr. ADAMS. I believe that they intended, or at least the idea was, that this was going to be some kind of an investigation. But as far as I am concerned it never came about.

Senator NUNN. It sounds like to me Mr. Colby ordered an investigation, and let the chips fall where they may.

Mr. ADAMS. The way I put it in, it sounds very good, let the chips fall where they may.

Senator NUNN. This is in effect complimentary to him.

Mr. ADAMS. It would be complimentary to him if something happened after that. But apparently there was no investigation which transpired after he made this remark.

Senator NUNN. Are you saying that is his fault, if he gives an order and it is not carried out? With the details he has on his mind, do you think that he can follow through that closely on everything? I am just wondering whether this is an overall criticism of him or whether it is complimentary. I am a little puzzled.

Mr. ADAMS. I am saying, what I meant to portray here was, he had made this remark, let the chips fall where they may, but there was no investigation of what I was trying to get investigated as far as I could tell, and the only two chips that fell were on me. First, the report of my having a complaint went out to the prosecution and they tried to portray me, the prosecution did, as a chronic complainer. And second, in March of 1973, I was told that I was about to get the sack.

Senator NUNN. That was how long after the first time you were told you were going to be fired?

Mr. ADAMS. Let me see. The first time——

Senator NUNN. June of 1971.

Mr. ADAMS. June of 1971.

And then it came around again in March of 1973.

Senator NUNN. Which was about 2 years later.

Mr. ADAMS. About 2 years later. There were a couple of interim threats, however.

Senator NUNN. What were they related to? Was that some other document you submitted?

Mr. ADAMS. They seemed to be closely related to this whole matter of the Khmer Communist order of battle. I kept complaining that the things had been, the way I put it, hoaxed or fabricated.

Senator NUNN. But you are not saying that Mr. Colby had anything to do with that?

Mr. ADAMS. No, sir, I am not. I am making the observation, however, that he was aware that at least somebody had made allegations concerning the fabrication, and that nothing happened thereafter except those two chips falling.

Senator NUNN. Was Mr. Helms the head of the CIA then?

Mr. ADAMS. Yes, he was until February 1973.

Senator NUNN. Was he aware of that, do you think?

Mr. ADAMS. I think he probably was, yes. Helms had also been involved——

Senator NUNN. What was your exact job?

Mr. ADAMS. Primarily just analyzing, sir.

Senator NUNN. And how many people did you have under you?

Mr. ADAMS. It ranged—ordinarily I was working by myself, but I had at one time as many as three people working for me.

Senator NUNN. How many were over you? Were you at the bottom of the pole?

Mr. ADAMS. Yes, I was at the bottom of the heap.

Senator NUNN. How many people would be on your level in the CIA?

Mr. ADAMS. Most of the CIA would be on my level, I mean Indians.

Senator NUNN. How many of them submitted these counter memorandums? Was this an unusual thing?

Mr. ADAMS. Yes, sir; it is very unusual. I would point out that when I wrote the memorandum which said that the CIA order of battle was not 5,000 to 10,000 but 100,000 to 150,000, that suggested an error of between 1,000 and 3,000 percent, which is pretty big.

Senator NUNN. Was that your responsibility? Was that part of your responsibility, to review that?

Mr. ADAMS. It would have come within the charter I had for the paper I was writing at that time. If somebody asked me, why the dickens were you doing that, I would wave a piece of paper about and say, here is why.

Senator NUNN. Did you have any discussions with your superior about this? Did you tell us you were frustrated because obviously there was an error being made?

Mr. ADAMS. Yes sir.

Senator NUNN. That is what the memorandum said?

Mr. ADAMS. Frequently, yes, I pointed out a number of times——

Senator NUNN. What was his response to that? Did he say, mind

your own business, did he say go ahead and write a memorandum? Was this memorandum written contrary to the wishes of your superior?

Mr. ADAMS. No, sir. It wasn't necessarily contrary to the wishes of my superior. He didn't know I was writing it until I handed it in.

Senator NUNN. To him?

Mr. ADAMS. To his deputy, who was also above me.

Senator NUNN. To the Ellsberg trial for a minute. As I read your statement:

Second, upon return from the Ellsberg trial, I was informed orally that my employment with the CIA was about to be terminated, although eventually the agency backed down. I have reason to believe that the persons who opposed my termination were the same ones who were responsible for the fabrication of the Khmer Communist order of battle in 1971.

Mr. ADAMS. That is correct.

Senator NUNN. Were you suggesting here that it was the previous conflict 2 years prior to that that was still kindling that was causing the possibility of your being terminated?

Mr. ADAMS. Yes, sir. I am suggesting that. The reason is that this memorandum I wrote in June of 1971 was really an opening gun, because I wrote several other memorandums after that which indicated exactly the same thing. For example, when this analyst who had been assigned the number 10 to 30,000 came out with a memorandum in November 1971 indicating there was 15 to 30,000—

Senator NUNN. Who was this? Have you got his name?

Mr. ADAMS. Yes, sir, I do. I would prefer if I could, because I am not sure whether he is under cover or not, to give you—

Senator NUNN. Would you furnish that, and we can determine whether it ought to be a matter of the public record or not.

Mr. ADAMS. Fine, I will, sir.

Senator NUNN. Thank you.

Mr. ADAMS. After he came out with this paper I wrote a lengthy criticism of his official paper which became the official order of battle, pointing out that he had used many of the same techniques in devising the order of battle that the military assistance command—that is, MACV, had used prior to the Tet Offensive. I had been in a considerable fight at that time before the Tet Offensive, pointing out that the enemy order of battle then was way too low, and in fact when the offensive hit, large numbers of units which showed up in the middle of Saigon and other South Vietnamese cities had never been in the order of battle. Then I was afraid that that kind of thing was going to recur.

Senator NUNN. Was this analyst that gave this 15,000 to 30,000 figure on your level, so to speak?

Mr. ADAMS. Yes, sir, so to speak.

Senator NUNN. So you were two at the same level challenging each other, is that right?

Mr. ADAMS. I wouldn't say challenging each other, but we were both at the same level, yes, sir.

Senator NUNN. Do you think he was the one that was instigating your termination or firing?

Mr. ADAMS. Oh, absolutely not, sir. He is a good friend.

Senator NUNN. Someone up the line was?

Mr. ADAMS. Somewhere up the line, I imagine it would probably be either the head of research or his deputy.

Senator NUNN. And the reason that you would surmise that is because they had been using this erroneous information, and they didn't want to correct it because it would be admitting that they would be wrong?

Mr. ADAMS. I think that is part of it. And one of the reasons that they could get away with this thing, I think, is that I feel that the administration perhaps—I don't want to lay too much blame on the administration—would not—

Senator NUNN. They are accustomed to it, I think.

Mr. ADAMS. At any rate, if an analyst comes out with a low number, the administration is not to go about beating him on the head and have him raise the number. In other words, administration policy vis-a-vis Cambodia is—at least at that time, and I think it continues more or less this way—the bad guys in Cambodia are Vietnamese, and if you come up with a big Cambodian army, this tends to disapprove the underpinnings of our policy. Are you with me?

Senator NUNN. I am with you.

Mr. ADAMS. Thank you, sir.

Senator NUNN. On this Ellsberg trial, then your testimony there didn't really have much to do with the fact that you were threatened to be fired, is that right?

Mr. ADAMS. No, sir, it had to do with my questioning of or rather my doubts about the honesty of some testimony of a prosecution witness, one General Deputy. And he was saying that release of certain statistics by Ellsberg was detrimental to the national security of the United States. The statistics included the order of battle statistics of the 1967 period. And I knew, because I had worked on this at the time, that those had been fabricated, too. And my question was whether it was a Federal crime on the part of Ellsberg to release fabricated statistics.

Senator NUNN. You said they had been fabricated. You mean they are erroneous, or did you know that someone with a motive had falsified them?

Mr. ADAMS. I believe that someone with a motive had falsified them. I have been trying ever since then to find out who was.

Senator NUNN. You don't know?

Mr. ADAMS. No, sir, I have been trying to get an investigation going to see who it was before the Tet Offensive that was the case of fabricating the statistics. I tried in December 1972 to get an Army investigation going and failed.

Senator NUNN. Is this due to the CIA analyst again, or is it primarily the military intelligence?

Mr. ADAMS. It is primarily the military intelligence, yes, sir. The CIA was conscious of the fabrication and went along with it at the time.

Senator NUNN. You say they were conscious of the fabrication. How do you know?

Mr. ADAMS. Because I told them.

Senator NUNN. You told them?

Mr. ADAMS. The CIA hierarchy.

Senator NUNN. So if they believed you they were conscious of it.

Mr. ADAMS. Well, they came to believe me, because after the TET Offensive they used my figures.

Senator NUNN. So what you are telling us is that in your opinion if the CIA is convinced that they are wrong, even if one of their own people tells them, that they are not willing to make any changes because they would be saying that they were wrong, and it would be contrary to policy?

Mr. ADAMS. I wouldn't say that of the whole CIA, but perhaps to some individuals in the CIA. My problem is, I don't know who is responsible for this kind of stuff, so I find it very difficult to make a broad statement on it.

Senator NUNN. You said a minute ago you thought it was someone in the research division.

Mr. ADAMS. That's correct. Yes.

Senator NUNN. Mr. Colby is not in this division, is he?

Mr. ADAMS. No, sir. But it could be—and I could never find out about things like this—it could be that the director himself was aware of this. Now, I know that Helms had been aware of the fabrication that went on of statistics back in 1967.

Senator NUNN. How do you know that?

Mr. ADAMS. Because I was working in his office at the time.

Senator NUNN. You might tell us a little bit about that. It is a pretty serious charge. He is not here.

Mr. ADAMS. In 1967 I was working in the CIA under an officer called Special Assistant to Vietnamese Affairs, which is an office directly under Helms. And I was an analyst within this office. It is a small one, and perhaps has a dozen or so people. From 1966, until a few days before the Tet Offensive, I had been pushing for higher numbers to describe the size of the Viet Cong Army. In other words, I thought it was bigger than the official statistics said it was. There was a series of order of battle conferences over findings that I had made in August 1966, which suggested that the OB was a larger figure. Starting, I believe, somewhere around June or July 1967, the order came down from the MAV hierarchy to its order of battle section that they were to try and keep the order of battle willy-nilly under the number of 300,000.

Senator NUNN. The order came from where?

Mr. ADAMS. This I have never been able to ascertain, where it came from.

Senator NUNN. Did you see the order?

Mr. ADAMS. I heard about the order. I saw it reported in a cable within the CIA, that the Army wanted to keep the number below 300,000.

Senator NUNN. The Army gave the directions for this to be kept?

Mr. ADAMS. Yes; the Army was responsible.

Senator NUNN. The Army was telling the CIA what they wanted to report?

Mr. ADAMS. In essence, yes. And the question was, it seems to me, whether the CIA was willing to accept the Army's number.

Senator NUNN. What month was this?

Mr. ADAMS. Well, there was a series of fights, and it was really June 1967 through September 1967. And in September 1967, we threw in the

sponge and said, yes, we would accept the Army number, or something very close to it, not exactly it.

Senator NUNN. Did you go along with that?

Mr. ADAMS. No; I raised the roof.

Senator NUNN. To whom?

Mr. ADAMS. To, first, in a series of memoranda that went to the Director, to the head of the research, to the head of Economic Research, and a number of other offices, and to the head of the Board of National Estimates. I later went to the CIA Inspector General. I also complained to the President's Foreign Intelligence Advisory Board. And I also complained to the National Security Council staff. And then in, I think it was February or March of 1969, they threw in the sponge.

Senator NUNN. You did a lot of complaining?

Mr. ADAMS. Yes, sir.

Senator NUNN. Did anybody agree with you in the whole CIA?

Mr. ADAMS. Yes, sir.

Senator NUNN. And have you got names?

Mr. ADAMS. I have. But I would like to submit them if I could—

Senator NUNN. You do have people that agree with your analysis?

Mr. ADAMS. Yes, sir.

Senator NUNN. And agree with your allegation of falsification and fabrication, I think that you said?

Mr. ADAMS. I don't know whether they would characterize it as that, but I think that they would certainly go along with the facts—a lot of people would go along with the facts as I present them; yes, sir.

Senator NUNN. And is there a reason you don't want to give it in public?

Mr. ADAMS. Well, I hesitate to do that, because I am on the hook with a secrecy agreement, and I don't want to put my neck on the chopping block now.

Senator NUNN. Are some of these people still with the CIA?

Mr. ADAMS. Yes, sir.

Senator NUNN. When did you terminate with the CIA?

Mr. ADAMS. June 1973, was when my resignation became effective.

Senator NUNN. And were you not fired?

Mr. ADAMS. I was not fired; no, sir.

Senator NUNN. But you were still under the threat of being fired, or had that threat subsided?

Mr. ADAMS. No, sir. It was on the 19th of March 1973, when I was told that I was going to be terminated, orally, that I would get a written notification shortly thereafter.

Senator NUNN. And who told you that?

Mr. ADAMS. A Mr. Maurice Ernst told me that. And he said that I would get a written notification shortly thereafter, and the notification never showed up. In the meantime I was raising quite a stink, because I said that I thought that the reason I would be fired was because of the Cambodian Communist order of battle. Also, it occurred to me—and this was almost a form of paranoia—that after the Ellsberg break that maybe somebody in the White House had sent the word to put the whammy on me. And so I sent a memo to the Director asking him, hey, was it the White House—

Senator NUNN. How many people sent these memos? I don't know how the Director had time to read all your memos.

Mr. ADAMS. He very seldom got memos from me. He did for a little bit after I was trying to find out who put me on the termination list. What he did generally was to send it over to the legal counsel's office; in fact, the guy that used to write me is sitting right back there, his name is—I don't know, he was there this morning—his name is John Green. And he had my account. And I would send a memo to the Director. And I said something to the effect, Director, was it the White House or was it you that put me on this list? And the first memo I got back, not from the Director but from the legal counsel's office, said, you are not on the list at all.

Senator NUNN. And you kept trying to find out who was trying to fire you?

Mr. ADAMS. And then I said, that wasn't the question I asked. I asked who put me on the list. And he kept saying, you are not on it anymore.

Senator NUNN. I am a little bit puzzled. If you were going to be fired and that threat subsided, how did you find it out? Everytime you sent a memo asking who was firing you it looks like it would jeopardize your job that much more.

Mr. ADAMS. I was annoyed, because I don't like to be threatened as I was, and I wanted to find out who did it. So the next time I went to the Inspector General.

Senator NUNN. So you had sort of a corollary investigation going as to who was trying to fire you for almost 2 years, didn't you?

Mr. ADAMS. No; I didn't really start trying to find out directly until May 1973, this year. I think it was April or May 1973, asking who it was that was sticking me on this list all the time, or had stuck me on the list.

Senator NUNN. What made you finally decide to leave?

Mr. ADAMS. I think it was—as I put it in my letter of resignation—a sort of longstanding dismay over the fact that I thought that those statistics were being faked all the time.

And, incidentally, I would like to mention something, if I could, at the moment, that Senator Symington in questioning me brought up the term "disgruntled employee." I don't consider myself a disgruntled employee, because I think the CIA performs a very useful mission. I wouldn't even mind going back there, as absurd as it sounds. But I simply got sick of faked statistics. And I was hoping that the CIA would get back to its job, what I think, of telling the truth.

Senator NUNN. None of this relates directly—you don't have any direct criticism of Mr. Colby, you are talking really about the whole CIA basically?

Mr. ADAMS. Yes; but this morning's testimony, and particularly my statement this morning, was about Phoenix—

Senator NUNN. I know that part of it. But these memoranda you were sending back and forth, and so forth, you are not alleging Mr. Colby tried to get you fired, because you were bringing them out?

Mr. ADAMS. I could never find out who it was. Mr. Colby at the time was Executive Director.

Senator NUNN. It could have been anybody from your level, right on up to the top?

Mr. ADAMS. Yes; I tend to think it was more in the hierarchy than the lower-archy.

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Senator NUNN. The hierarchy?

I would like very much if you could give counsel those names that you referred to. I've got to go vote.

The hearing will resume when either Senator Symington or I get back.

Mr. Adams, we appreciate very much your coming and testifying. And that will be all. We will have the next witness when we get back.

Mr. ADAMS. Thank you.

Senator NUNN. Mr. Sakwa will be the next witness. And that will be in approximately 15 or 20 minutes.

[Recess.]

[Mr. Samuel A. Adams' statement follows:]

INTRODUCTION

My name is Samuel A. Adams. I resigned from the Central Intelligence Agency on 1 June 1973. My resignation stemmed from dismay over what I thought was the sloppy and often dishonest way U.S. intelligence conducted research on the struggle in Indochina. An example of the shortcomings, I believe, was the manner in which U.S. intelligence produced reports on the political and administrative agencies of the Viet Cong. These agencies, sometimes called the "infrastructure", were the target of the Allied Phoenix Program. The Phoenix Program was overseen at one time by Mr. Colby, a candidate to receive the CIA's Directorship.

Seven of my ten years at the Agency were devoted to research on our adversaries in Indochina. My reports included an extensive study on the Viet Cong police system, a treatise on Communist subversive agents in the South Vietnamese Army and police, and an examination of the Viet Cong's covert structure in South Vietnamese territory. In 1970, I wrote a lengthy study entitled "Guide to a Viet Cong Province," which the CIA uses as its standard field handbook on the Communists in South Vietnam. For about five years I gave the Agency's training course on the Viet Cong to CIA case officers bound for Vietnam.

I respectfully submit the following statement to your committee.

PREFACE

The Phoenix Program is an example of a sound concept gone awry. It was meant to destroy the Communists' political apparatus, but it has not done so, and the Viet Cong are in the middle of a resurgence throughout South Vietnam. Although the country's surface looks peaceful enough (at least compared to the last few years) the appearance is deceiving. Beneath the surface of the South Vietnamese government, the unravelling is well along.

THE THEORY OF PHOENIX

Phoenix was conceived when the Allies' main weapons in South Vietnam were American warplanes, and heavily-armed battalions whose mission was to "search and destroy". The weapons were bludgeons, which all too often failed to discriminate between the enemy soldier and the innocent bystander. More important, they were virtually useless against the Viet Cong political cadre, who, it came to be realized, was just as dangerous as the Viet Cong warrior.

Phoenix was designed to fill the gap. Copied from a British concept which had succeeded in Malaya, the Phoenix Program was meant to replace the bludgeon with a scalpel. The key to the operation was precise targetting. Instead of bombs—which killed large numbers of civilians in addition to the occasional political operative—Phoenix's main tools, theoretically, were good intelligence and good files. The object of the program was to find out who among the Vietnamese population were Viet Cong cadres, and to arrest or kill them. In theory, arrests were preferable to assassinations, because a prisoner could lead to further arrests, and a cadaver led nowhere.

In order to work, the Phoenix Program had basic needs. These are five of the most important:

1. A clear perception of the nature and organization of the target.

2. Good intelligence concerning the names, the whereabouts, and the activities of the people who belong to it.

3. A tight, well-run police organization, with secure files, with the ability to keep close track of the population, and with a high state of training and morale.

4. An efficient and fair judicial system, with stout prisons and a rehabilitation program which could turn rebels into citizens.

5. Most important, popular support.

The trouble with Phoenix, and the reason it didn't work, was that its needs, although recognized in theory, were never fulfilled in practice. The diverse between hope and reality became so wide that the program degenerated into a game of statistics, in which numbers were paramount, and the object of the exercise—the crippling of the Communist Party—was never even approached. I will deal with the needs one by one.

THE PERCEPTION OF THE TARGET

When United States troops first landed in force in Vietnam in early 1965, we were abysmally ignorant of the nature of the threat. It was thought that the application of enough military force by the U.S. would eventually compel the Communists to lay off. But they didn't, and the introduction of each new American battalion only seemed to get us in deeper than we already were. Finally the Tet offensive demonstrated the Viet Cong's ability to get large numbers of troops into South Vietnamese urban areas without detection and parried U.S. intelligence into the realization that the Communists had something there besides an army. The Phoenix program—which had existed in one form or another for several years began to take serious shape.

The initial problem was that the basic research on the nature of the adversary and of his organization was either undone or misunderstood. When the time came to designate a target for the Phoenix organization to aim at the most readily available entity was something U.S. intelligence called the "infrastructure", a catchall phrase long used to describe the non-military portion of the Viet Cong organization. Unfortunately, the Communists themselves had no such term, and U.S. intelligence had no precise definition of what it included. It did have a number, however, 29,175, which had remained the same from June 1965 up until the eve of the Tet offensive. Although the number changed after Tet—it has ranged since then from 60,000 to 90,000—the definitional problem was never cleared up. As a result, no one knows even now who belongs to the "infrastructure", and the number given out officially is the sum of guesses from the field, made by people who have varying ideas of what they are counting. It is conceivable, using the loosely-defined official criteria, that we could say the "infrastructure" was anywhere from 10,000 to a quarter of a million strong.

A salient problem of who to count arose from the fact that for some time the Viet Cong's covert operatives in South Vietnamese territory were not included in the official lists. Thus a spy in Thieu's office—there was one—would be excluded from the "infrastructure" because he failed to fit the official U.S. definition. The problem was compounded because of the reluctance on the part of U.S. intelligence to look into the matter of Viet Cong subversion. For example, in May 1969, the CIA Chief of Station for Saigon indicated on a visit to Washington his belief that the Viet Cong had only 200 agents in the South Vietnamese government. He spoke from ignorance. An in-depth research study going on at the same time suggested the real number of such agents was more like 30,000.

The question of the Communists' covert presence in South Vietnamese territory became particularly vexing after the coup in Cambodia in March, 1970. When it occurred, most of the Communists' army in the southern half of South Vietnam left for duty next door, and large numbers of Viet Cong cadres in Vietnam's Delta shifted from Viet Cong to South Vietnamese territory, often by defection through Chieu Hoi centers. The ensuing quiet in the Delta—along with an apparent increase in the enemy defection rates—gave rise to optimism among American officials in Vietnam, including those who manned the Phoenix program.

PRECISE INTELLIGENCE

Although hard intelligence on the names, whereabouts and doings of Communist cadres is much sought after, it is very hard to come by. Allied files bulge with information of this sort, but in the vast majority of cases it is either false or incomplete. Things have improved since the early days of Phoenix when opera-

tions against specific targets were almost nonexistent. But the improvements have been marginal, and the latest report from the field suggest the situation is getting worse instead of better. In any case, the type of person "neutralized" by Phoenix is about the same as it always was; they are mostly low-level and of little consequence. The hard-core Party member is still un-caught.

WELL-RUN POLICE

The South Vietnamese National Police and Military Security Service—both of which work for Phoenix—are better now than they were, say, in 1966. But the base was so low that it is difficult to conceive that they could have gotten worse.

The problem here is much more complicated than simply low morale, (which recent reports suggest is endemic among the South Vietnamese constabulary). The most trying aspect of the situation is the Viet Cong's continued penetration of the South Vietnamese security apparatus. Captured documents indicate that many hundreds of South Vietnamese policemen are in reality Viet Cong agents. The penetrations occur at all levels. A government roll-up which took place in northern South Vietnam in 1971 show the dimensions of the problem. Among those reportedly apprehended as Viet Cong agents were the chief of police of Da Nang city, the chief of the police Special Branch, and his assistant for operations, and the chief of police for I Corps. The first three were jailed. The last, after evidence proved insufficient for conviction, was reputedly transferred to Saigon as a police advisor to the Phoenix program.

Although the American advisory effort to Phoenix contained no Viet Cong agents, it often was of questionable help. One of its main shortcomings was the ignorance of most advisors of the Viet Cong target. Prior to August, 1968, the average CIA case officer received no training what so ever in the organization and methods of operations of the Communist structure. Then, in late 1968, a training program started up which by the end of the year gave those bound for Vietnam 24 hours of instruction. This was rapidly cut back. The number of hours in the Viet Cong now given to CIA case officers going to Saigon is four.

An ancillary problem is the one of population control. Despite many attempts over the last five years, there is still no adequate ID card system in Vietnam, and large numbers of persons, particularly in the slums, roam about without the police knowing who they are. Likewise, the Phoenix system has yet devise as mundane a thing as a catalogue of fingerprints. If, say, the U.S. ambassador were killed tomorrow, and the gun was found which accomplished the killing, there would be no way to trace the assassin, from the prints on the gun.

THE MATTER OF PRISONS

South Vietnamese prisons continue to leak, although not as badly as a few years ago. Still, the average Viet Cong captive—unlike the common criminal—will likely go free within a few months. Again, one can point to improvements, but the basic problem remains that the accounting system which comes into play after a suspect's arrest is so loose that it is often very difficult to tell what happens to him shortly thereafter. In several areas of Vietnam, at present, the system has broken down completely, so that Communist prisoners in these areas frequently fail to go to prison at all.

Furthermore, there is an almost complete lack of a rehabilitation system. The old saw that the most dedicated Vietnamese Communists have usually done time continues to have a ring of truth. Captured documents still show that those who leave South Vietnamese prisons frequently rejoin the Viet Cong organization after their release from jail.

POPULAR SUPPORT

But the biggest single drawback to the Phoenix program is that except in a few areas it lacks popular support. What this boils down to is the reluctance of the average South Vietnamese citizen to turn in a Viet Cong cadre when he encounters one. Whether the reluctance stems from fear or admiration of the Viet Cong, it amounts to the same thing. That is, the extraordinarily large Viet Cong apparatus continues its covert existence in South Vietnamese territory.

SUPPLEMENT TO THE STATEMENT BY SAMUEL A. ADAMS

NOTE

I would like to attach this supplement to my main statement. It has to do with Cambodia, and what I believe was the deliberate fabrication of statistics of the Khmer Communist Order of Battle by the CIA. I made allegations concerning the fabrication to the CIA Inspector General in December 1972, and I was told that Mr. Colby was aware of the allegations. As far as I can determine, no attempt was made to investigate the charges.

The circumstances of the fabrication are as follows:

1. The Khmer Communist Order of Battle, as put forth by U.S. intelligence between April 1970 and June 1971, was a range of from 5,000 to 10,000. The range remained constant during this period because no one within the U.S. intelligence community was looking into the matter.

2. In June 1971, I completed a memorandum, about 40 pages long, which was based on a review of all available evidence. Shortly after I handed the paper in, it was killed; I was threatened with firing, and told to work on weekends for the foreseeable future. I did so—that is I worked a seven-day week—throughout the summer of 1971. I would respectfully submit that this was a rare instance in which an intelligence analyst was punished during time of war for finding an enemy army.

3. Right after the paper was removed from my control, the job of researching the Communist OB in Cambodia was assigned to an analyst who had never worked on Cambodia, and who had never researched a combat OB. (By contrast, I had worked on Communist strength estimates for several years, often as the Agency's only analyst on the matter.) The day the new analyst was given the job, he was also given a range to come up with—namely, 10,000–30,000. The analyst took five months to devise a way to come up with the assigned range. In November 1971, the CIA finally released its official OB. The number it came up with was a range of from 15,000–30,000, almost precisely the number the analyst had been given the previous June.

The present Khmer Communist (KC) Order of Battle approximately 50,000—is derivative of the old number. I respectfully submit that it is extremely misleading, and greatly understates the strength of the Communist military organization in Cambodia. I would make the observation that U.S. intelligence currently asks us to believe that the Cambodian Government army of 200,000 outnumbered the KC army by four to one. Since Phnom Penh seems about to fall, I would respectfully suggest that the odds, as put forth by U.S. intelligence, are something of an anomaly.

I would note that I am in the process of laying out a more detailed account of what happened, which will include names, dates, and who did what to whom.

In any case, I submitted in December 1972 a detailed oral complaint to the CIA Inspector General (IG) on the matter. The IG official took lengthy notes on what I had to say. A day or so later, he told me that Mr. Colby, then the CIA's Executive Director, had said vis-a-vis my complaint, "Let the chips fall where they may."

As far as I can determine, only two things appeared to happen as a result of my complaints.

1. First, the Prosecution, during my testimony for the Defense at the Ellsberg trial brought the matter up to impeach my credibility as a witness. My trip to the CIA Inspector General was portrayed as the act of a chronic complainer.

2. Second, upon my return from the Ellsberg trial, I was informed orally that my employment at the CIA was about to be terminated. Although eventually the Agency backed down, I have reason to believe that the persons who proposed my termination were the same ones who were responsible for the fabrication of the Khmer Communist Order of Battle in 1971.

Senator NUNN [presiding]. The committee will reconvene.

And we have Mr. Sakwa, who will be our next witness.

Senator Symington will be back in just a few minutes.

Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

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Mr. Sakwa, do you want to be sworn in?

Mr. SAKWA. I do.

Senator NUNN. I believe you do have a prepared statement.

STATEMENT OF PAUL SAKWA, WASHINGTON, D.C.

Mr. SAKWA. Yes, I do, Senator.

Senator NUNN. We would be delighted to have that.

Mr. SAKWA. This is very brief. I have submitted a number of documents to the committee, and I didn't want to spend the whole day reading them to you since you have them here.

My name is Paul Sakwa. I reside at 825 New Hampshire Avenue NW., in Washington, D.C. I was a CIA employee, in the clandestine services, from 1952 until 1962. At our Washington headquarters, from February 1959 until August 1961, I had responsibility for political, psychological, and paramilitary warfare operations, in the Far East Division, for Vietnam. When I left this position to join the staff of Deputy Director (Plans), my title was Chief, Covert Activity, Vietnam.

I ask, respectfully, that my memorandum of July 4, 1973, addressed to Mr. Woolsey of this committee staff on the subject of Mr. William E. Colby, be made a matter of record.

In this memorandum I state:

Mr. Colby is an uncontrollable agent, he slanted intelligence, submitted misinformation, and permitted U.S. funds to be used in rigging the 1961 election in South Vietnam, while he was Saigon Chief of Station.

In the same memorandum, I cited the number identifications of 38 documents, plus the dates and titles of five memoranda which I wrote and addressed to the DDP, who then was Mr. Richard M. Bissell, Jr.

When I was informed by the committee staff that CIA could not locate my memoranda, addressed to Mr. Bissell, I gave copies to the committee. I ask, respectfully, that these memoranda be placed in the record. Names of those not involved in this hearing should be deleted, if I have not already done so.

Although I have indicated to Mr. Bissell that I could not account for Mr. Colby's strange performance in Saigon, there is a possible explanation. I have no proof of this: An unofficial effort on the part of senior CIA officers to worsen the situation in South Vietnam so that a greater military presence would be justified and an early nuclear confrontation with Communist China might take place. Among others, Charles S. Whitehurst (Chief VCL) and possibly Desmond Fitzgerald (Chief FE) were of this mentality.

I would like to add that regretfully Mr. Fitzgerald is no longer alive, and of course cannot counter my interpretation of what he felt about Vietnam. I regret that.

I also submitted to the committee a critique of CIA which I wrote in 1962 and edited a bit in 1964.

I want to thank the committee for the opportunity to testify. And I would be happy to answer any questions.

[The document referred to follows:]

PROBLEMS OF A CLANDESTINE AGENCY

(An Inside Critique by Paul Sakwa)

(Author's note: Since the author has had extensive experience in the area discussed by this article he is writing under a pseudonym in order to avoid any possible embarrassment to the U.S. Government. Although this is a critique of a certain federal agency, it does not contain classified information. It was written in early 1962 and elaborated on slightly in 1964.)

INTRODUCTION

Inspired by the conviction that no outside group or individuals could obtain an accurate view of a certain Agency's workings and problems without operational experience within the Agency itself, this article seeks to provide an inside critique.

In the Agency the arts of security, concealment and deception have been so highly refined and made almost instinctual that some of these practices have manifested themselves on official levels where truth and accuracy are a command necessity. The natural hostility of the other agencies which operate more openly compounds the universal bureaucratic tendency to thwart criticism. Psychological factors incline those totally absorbed with secret information to disdain other information. Ambitious men, driven to obtain more intelligence and more agents, become blinded to the purpose of operations. The compartmentation and secrecy required for very sensitive activities perverts personnel policies so that there is a tendency to offer assignments only to one's friends.

Lacking a public record of achievement, a clandestine employee can hardly avoid becoming a prisoner of his job. In some instances the internal mechanism for handling grievances functions as does a Soviet trade union—promises are broken and discipline is enforced. This is a closed society if not a sealed one. Technical and craft requirements and the hypnotic fascination of clandestine (James Bond) techniques have given the technicians a predominant role, displacing men of political judgment in an activity where mistakes have the gravest policy consequences.

It could be maintained that any critique of the Agency can be refuted on the grounds that the author does not know all the facts. The reply to this is that no one knows all the facts, there has often been confusion between what constitutes absurdity or intelligence and those presently in control can hardly be expected to point the accusing finger at themselves. Facts exist and can be found by those who have access to the files and the persons concerned.

Until recent years there was in the Agency an atmosphere that encouraged daring, new ideas and objectivity. A residue of daring remains, a majority of the better men have left, and much of the remaining talent is busily engaged in avoiding responsibility and in ossifying their minds. Inter-agency struggles, internal political conflicts and an over-extended involvement in matters of foreign policy (a process begun during the Eisenhower Administration when there was a lack of policy) have made some men giddy with power and imbued them with self-righteousness. In 1962 about half the operations were useless if not counter-productive or just plain not worth the expense.

Paying for misinformation has consequences more serious than a mere waste of money. Those holding responsible positions on the middle and senior levels know that the present situation protects them from embarrassing inquiries and they naturally prefer the status quo. As a consequence many of them have not only lost some degree of objectivity but they have also become inordinately sensitive to the kind of criticism contained herein.

The Agency performs most of its operational functions with admirable professionalism; its personnel are probably the most devoted if at times most misguided men in our government. Its deficiencies result in large measure from its very rapid growth, the pernicious byproducts of secrecy, the lack of coordination with other agencies and with the White House, and the lack of effective Congressional review. Cultural personal and operational factors influence political judgment; a ranking official with an old-fashioned banana company mentality simply will not cooperate in promoting peaceful social revolution in Latin America—and may even thwart such policies; a commander in the Cold

War with a counter-espionage mentality frequently cannot distinguish between a Democratic Socialist and a Marxist Communist. Even so-called positive operations are corrupted by the participation of professional anti-Communists who know what they are against but not what they are for. Granting that all agencies make mistakes, the task is to discover if the propensity to error has become a habit and also to create the checks and mechanism whereby most of the avoidable mistakes are indeed avoided.

Inasmuch as this article concentrates on the errors and mistakes inherent in the very nature of a clandestine agency to the exclusion of its accomplishments, it might produce the impression that the Agency is a bureaucratic morass devoid of any saving grace. This is not the case. The Agency still contains a high percentage of dedicated men and women whose main concern is the welfare of their country. In some areas pleasant informality persists. Moreover, the Agency treats its employees who suffer personal calamities—service or otherwise induced—with a humanity and consideration which might well be emulated elsewhere. Woe the heretic, however, who renounces this religion and leaves this order.

A CLOSED ORGANIZATION IN AN OPEN SOCIETY

By its very nature, a clandestine agency conceals its activities, including its mistakes. And all bureaucrats tend to avoid blame and responsibility, curry favor and, on occasion, accept credit for the work of others. However, since there is often more than a fair amount of resentment and official criticism directed at the Agency, the recipients of this antagonism are understandably reluctant to compound possible unfairness. In addition, any valid external criticism (valid only because it cites examples) suggests the possibility of a security leak. In this way security considerations, self-defense and misguided self-righteousness become unavoidably intermingled.

The pursuit of secret knowledge develops a "keyhole" frame of reference in the mind of the pursuer which severely limits his perspective. The narrow task of cultivating or handling an intelligence source allows little time for reflection or the assessment of an overall political situation. In the newer nations, where there may be close liaison relationships with high ranking members of a friendly government, biased reporting may result from adopting the political bias of one's opposite numbers, and some foreign officials may come to believe that the Agency is a quicker and more effective channel to action in Washington. If the Agency concludes that there is no alternative to a particular policy or regime (suggesting some leader's immortality and thus placing him and his regime in mortal jeopardy), there is an element of career risk involved in submitting reports or evaluations which contradict Agency policy.

The procurement and handling of secret knowledge fosters a feeling of omniscience and promotes an attitude of disdain for material from overt sources which could implement, support or question intelligence reports. The procedures designed to prevent outside scrutiny have become reverse barriers which in important instances screen out truth, objectivity and the possibility of sound judgment. Documents stamped SECRET tend to be regarded as necessarily true. Those charged with carrying out political operations also supervise the procurement of intelligence, which may reflect on the purpose and success of the same political operations. Even men of high dedication cannot easily allow the accuracy and thus the success of one activity to announce the failure of the other.

Here the lack of effective Executive and Congressional scrutiny prompts irresponsibility which results in initiating and continuing unnecessary operations. Empires are sometimes judged by their wealth, and a sensible reduction in a unit's budget may complicate the obtaining of adequate funds at a later date. The performance of junior officers is evaluated on the basis of the number of agent recruitments and the number of intelligence disseminations. There is no record of an officer being promoted because he recommended the termination of a useless project.

Agency links with certain communications media may tend to influence American public opinion in both their operational and advertising functions.

Extreme security measures, overclassification of sensitive material, exaggerated use of compartmentation, the creation of special inter-agency units for the handling of sensitive material and composed of men who have not done their homework promote a kind of bureaucratic chauvinism and paranoia which, in turn, complicate or even prevent coordination in areas where responsibilities overlap. New channels often frustrate and block established and tested channels of policy formulation and action. The aura of secrecy induces an enjoyable

conspiratorial flavor while, at the same time, it breeds suspicion of capable officials who have the necessary clearance but are strangers. The keepers of secrets are not necessarily wise. At times they are even corrupted by them.

Clandestine operations involve modes of behavior which would be considered immoral within national boundaries. Such behavior becomes "realism" beyond our borders and, in the process, tends to promote indifference to moral and democratic values: there is a compulsive delight in activities wherein the breach of ethical behavior can be justified on patriotic grounds. Given a common enemy, the character and deportment of foreign contacts become almost unimportant considerations. Certain that the honor of Americans cannot be corrupted by foreign currencies, it is assumed that the services of foreigners—who have stature and integrity—can be purchased with dollars. The doctrinal procedures for hiring an intelligence source would present any intelligent foreigner with evidence of a lack of mutual trust, and working bonds of mutual interest become rather crude business relationships. The man who can be purchased works only for himself.

PERSONNEL: TECHNICIANS AND POLITICAL JUDGMENT

A clandestine technician is one who knows the mechanics of espionage according to established doctrine. His skill in this area is usually compensated by his inability to anticipate the political or other consequences of operational failure or success. He is to the Agency what a diesel engineer is to a steamship company: his services are essential, but his perspective is limited. A petty security infraction may enrage him, while a blunder of some magnitude may evoke little concern provided that doctrinal requirements have been followed. A technician has an insatiable appetite for intelligence (sometimes propelled by unlimited requirements levied by other agencies). Quality must surrender to quantity, since he cannot judge the former. The process of identifying a useful piece of intelligence has been compared to the task of gleaning a diamond chip from a pile of broken glass. When everything has been reported, the Agency cannot lose.

To a considerable degree the need for covert political action is reduced in proportion to the improvement in the quality and consistency of American foreign policy. Even prior to this happy development, many political operations became merely a means of payment for the "intelligence" received from liaison sources. If the liaison source represented a corrupt, inefficient and unpopular government, subsidies and close relationships helped to sustain the regime in its disastrous direction, making the United States a partner in corruption and complicating later efforts at reform. If such regimes are under pressure by the American Ambassador to institute reforms, high level officials of the regime may find a sympathetic ear in the person of the ranking Agency officer present. In addition to the obvious confusion, some very weird intelligence reporting may result from the maintenance of this "vital" liaison.

Since the Cold War was the main justification for the creation and rapid expansion of the Agency and since the end of the Cold War (a prospect not easily expected in 1962) would remove its *raison d'être*, there appears to be an unconscious bias favoring action which could aggravate what is mostly a political problem to the point where there is no choice but to adopt paramilitary measures. Impatience with sophisticated diplomacy and indirect political action follows from the fact that the enemy has many advantages in this game, as he has in conventional diplomacy. War is war, and in a war one does not question the character of one's allies. What is often missing, however, is an understanding of the political and social factors which make internal subversion and warfare successful. The halo of strident anti-Communism blinds the cold warrior to the fact that his ally may have created and fostered the preconditions for successful internal conflict. In the process of buying affection we lose the respect of our allies and they may lose their territories.

The Agency's operational area resembles the baronial system of 11th Century France: changes in command are referred to as a game of musical chairs. Senior officers who filled important slots ten years ago still retain the same or similar positions, interrupted at times with ours to the desirable foreign posts. In contrast, the Foreign Service retires some sixty to ninety men a year, mostly from the senior level. Perpetuating themselves in office and cultivating personal ties for over a decade, these officers inevitably develop proprietary attitudes and the assumption that longevity in a senior position makes for unassailable judgment. Incentive is reduced, new ideas are not encouraged and stereotyped operations result. Old friendships tend to supersede operational necessity in a closed

society, and the game of baronial politics more than adequately fulfills the gossip requirements of the Agency.

When incompetents achieve positions of authority (as they will in any agency), security procedures can conceal their incompetence and errors. Such individuals become adept at noisily anti-Communist—and often useless—operations. (Surely no one will criticize the production of anti-Communist propaganda even if it is dull and unreadable.) New ideas and imaginative minds are justifiably regarded as a threat to incompetents. Assignments are made by the operating units, and when an officer returns from a field post he may walk the halls for months if the old school tie fails to meet similar colors. This procedure may be contrasted with the one in effect in the Foreign Service.

The Agency blithely assumes that clandestine training produces labor experts and officers with political judgment, where as no one would dream of expecting the same process to produce attorneys and violinists. Clandestine expertise is confused with proficiency in other fields. Disdain for external criticism and discouragement of internal dissent prevents anyone from saying that the emperor or operational baron has forgotten his clothes.

CRITICISM AND LOYALTY

The lack of understanding and appreciation on the part of other agencies plus the time-consuming struggle to gain at times their acquiescence for even the most necessary and obvious operations has created a mentality which is supersensitive to any kind of criticism. This includes constructive criticism, the function most needed. Outside committees and groups with authority to monitor Agency activities are inevitably regarded as a potential threat. Since required security practices are best obtained from extensive training and conditioning, there is an understandable reluctance to impart vital and controversial secrets to visiting scholars and military types. There is the real possibility that some personality will be unduly shocked by this experience. Inasmuch as the Agency specializes in the arts of deception it is not difficult to dazzle the uninitiated visitors with a couple of good spy stories. It is relatively easy to mute all criticism by adopting the pious posture of lonely and selfless dedication against a diabolical enemy whose evil is only imperfectly understood elsewhere in the government.

The inverse pride in anonymity and the extreme dedication required for this profession forces the Agency to act like a state within a state. Joining the Agency is like taking holy orders for life. Higher loyalty to it rather than to the government is a reflex phenomenon. Clandestinely operating personnel have no public record (although there exists an office to help with this problem), there can be no appeal for outside understanding. There are severely lessened opportunities for employment elsewhere since one cannot describe previous employment experience. Resignees are stamped as renegades. These mostly inherent conditions discourage daring and dissent. Officers with family responsibilities who lack a private income and are not identified with the original OSS and FBI elements, tend to degenerate into the drones Stewart Alsop once claimed that he discovered in the Department of State.

CONCLUSIONS AND RECOMMENDATIONS

Those who are acquainted with the Agency's responsibilities, accomplishments and dedicated personnel will not question the vital role it must continue to play in the national security. Other spokesmen for the Agency will continue to justify or even glorify it. This article is a critique, hopefully an honest and constructive one. The Agency's difficulties are built into the system and go back some fifteen years. If bureaucracies have their own laws, logic and purpose, a clandestine bureaucracy would challenge even Mr. Parkinson's description.

The weaknesses of the Agency result from its very rapid growth in an area where expertise had to be acquired the hard way—by accepting risks and by acting swiftly where other agencies were unable or unwilling to act.

This rapid expansion placed many young men on upper professional levels where they have remained too long.

Necessary security procedures in the clandestine operation area have all but sealed openings to the healthy sunlight of outside criticism and to important realities. The receipt of some unwarranted criticism has eliminated receptivity to any criticism.

The lack of outside scrutiny and the absence of a court of appeal requires that the internal mechanism for handling grievances—where so much can be

concealed for so long—function with the highest integrity. While this machinery has performed many useful functions, it has also lied and exerted great power to protect its immediate master, the Agency.

Technical requirements of an unusual profession have placed a premium on clandestine expertise, relegating to a very secondary place the foreign policy requisite of foresight, anticipation, and sound political judgment. The Agency makes policy by the simple expedient of submitting a proposal for approval in an area where policy is unclear or non-existent. Its Director, who plays a Merlin-like role, sits in the highest councils. An Assistant Secretary of State will not contradict him. The Agency, like any agency which helps to carry out foreign policy, is capable of modifying it and of thwarting it.

The reorganization of the Agency, undertaken by those who have perfected the game of musical chairs, results only in a variation of the same game—musical offices or other units—leaving the main problems unresolved.

All these factors have combined in such a way that the Agency's capacity to make mistakes has become institutionalized. Any attempt to remedy this grave situation must take into account the enormous power wielded by this Agency. Secret knowledge is secret power. Other agencies must continue to coordinate with it and maintain its cooperativeness. It has vast legal, political and institutional links and power. It has sought and gained (with no evil intent) the cooperation of a large number of important individuals and organizations, in a response to patriotic needs. These patriots are naturally reluctant to see friendships, idols, past activities and even the liberal establishment questioned. In any event, it appears that sentiment is growing in the Congress for a stronger review function. Such efforts might find some guidance in the following recommendations:

Senior Agency officers must have unqualified loyalty to the President and should have demonstrated foreign policy views which are in concert with if not identical to the views of the President. In turn, these officers should have full Presidential support in fending unjustified attacks from other agencies, the press and the Congress. Since it claims to be a clandestine agency, it should not seek publicity. If senior officers are permitted to lecture, write and release papers concerning the Agency, then every present and former employee is justified in doing the same, including the author.

Since clandestine activity and its inevitable failures are of crucial concern to the success of foreign policy, an objective monitoring element should be introduced. Three functions are required: supervision by a Killian-type committee under the Executive, a permanent physical link with the Department of State, and the creation of a Joint Congressional "watchdog" Committee to oversee its operations.

(a) The new Executive Committee would consist of a member of the White House Staff (with access to all Agency facilities at any time), experienced officers from sister agencies and two non-governmental representatives (avoiding local institutions having links with the Agency) who reside in or near Washington, D.C., so as to permit frequent inspections.

(b) The link with the Department of State would consist of twelve carefully chosen officers from State who would have desks in both agencies, covering identical geographical or functional areas, who would have access to all Agency material in the areas of their assignment. This would be a two year assignment, without prejudice to considering the officers for promotion by State in the normal lapse of time. This bridge would provide a secure window to and for a closed support organization, and it would facilitate cooperation between two agencies which waste much time thwarting and detesting each other. Present liaison arrangements cannot perform these functions and these functions would not be a substitute for all present liaison links. This secure non-Agency scrutiny in depth would produce automatic pressures on the most serious existing deficiencies.

(c) It should be made clear that the Agency is a foreign support agency of the Department of State and that the Director of this Agency is of lower rank and power than the Secretary of State.

(d) Agency operations in the U.S. territories should be reviewed by the Executive before possible illegality is exposed by the Congress.

(e) Although the Agency falls under the authority of the President, this responsibility can be a political and policy liability. The Agency tends to be a power unto itself and U.S. Presidents have felt obliged to select as its directors—admirals, generals, individuals who are not always best qualified in the areas of foreign policy. President Kennedy failed to control this Agency because he and

his advisers failed to appoint to it and protect within it the men who were loyal to him and dedicated to his foreign policy objectives.

Senator SYMINGTON (presiding). Mr. Sakwa, I understand you voluntarily contacted the committee office and then met with two staff members and left the memorandum that suggested we obtain certain documents pertaining to the period in which Mr. Colby was station chief in Saigon; is that correct? At that time—we are particularly interested in 1961—you were a CIA employee supervising covert activities in South Vietnam?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. Did you have prior experience in Indo-China?

Mr. SAKWA. No, sir.

Senator SYMINGTON. Among the materials you suggested we request from the CIA are 31 documents which can be described as incoming intelligence reports from the field; is that right? Those documents are classified; are they not? Have you requested a declassification of them?

Mr. SAKWA. I don't know how I will go about it, but I think it is a good idea.

Senator SYMINGTON. Do you have copies of them yourself?

Mr. SAKWA. No, I don't.

Senator SYMINGTON. Did you submit them to the committee?

Mr. SAKWA. I submitted a number so the committee could obtain the documents and review them.

Senator SYMINGTON. The CIA has furnished all those reports to us now. In addition you suggested the file numbers of 70 other documents, both incoming and outgoing traffic. And in three instances you suggested that we also request replies; am I correct?

Mr. SAKWA. That is right, sir.

Senator SYMINGTON. Two of the documents supplied in response to your numbers refer to other countries, and one could not be found. It is possible that some of your reference numbers were in error?

Mr. SAKWA. That is possible; yes, sir.

Senator SYMINGTON. In addition, you suggested that we request five memos which you wrote as a CIA employee in the June-December period of 1961; is that correct?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. The CIA was able to supply only one of those memos, and officials believe they may have been hand-carried or handled in such a way that they were not lost. Do I correctly understand that when the staff advised you of this you were able to supply the five memos?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. You left one additional 14-page paper with our staff when you met with them?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. Does this summarize fairly the materials you have suggested for our review?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. We may have some difficulty here in open session, because each of those documents, with the exception of your undated 14-page paper, is classified. In your covering memo to our staff you say that this collection of documents which we have now obtained to prove, "Mr. Colby is an uncontrollable agent."

What do you mean by that?

Mr. SAKWA. I mean by that, sir, that he acts with a certain flamboyance which is perhaps typical of the older OSS group, who were undoubtedly very talented and brave men, but who form a kind of clique in the Agency. They go way back. And they were performing these functions during World War II. And they do free wheel. I know there were times when I would address a cable to the Chief of Station, Saigon, that is, to Mr. Colby, and all the cables went out from Washington had a DIR number, that is, they have the authority of the Director of Central Intelligence—

Senator SYMINGTON. Do you know Mr. Colby personally?

Mr. SAKWA. No, I met him once in Roger Hillman's office in State years ago, and I think that is the only time. I have nothing personally against him.

Senator SYMINGTON. You have nothing personally against him?

Mr. SAKWA. No, sir.

Senator SYMINGTON. Why did you leave the CIA?

Mr. SAKWA. I was forced to leave.

There is another circumstance which I have not yet presented to the committee. I don't think it would be proper, as you pointed out, unless I give you a few days warning on this, but I would be happy to relate that to you, because it is similar to this. There were two stories involved. One was the Vietnam story—

Senator SYMINGTON. Go ahead, whatever you have in your mind, let's have it.

Mr. SAKWA. Well, I wasn't prepared to come out with this at this time.

Senator SYMINGTON. You say that Mr. Colby, who has been nominated for the Director of the Central Intelligence Agency, is an uncontrollable agent. And that is a pretty serious indictment.

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. You have made it, and you have made it publicly. And therefore I ask you if you are in effect a disgruntled discharged employee, or if you have resigned and you want to help. Because it takes a long time to build a reputation, and you can destroy it overnight. I would just like to know your background and why you left the CIA, inasmuch as you have asked repeatedly and talked to a lot of people around town about this situation, and you asked to testify, and you are here.

Mr. SAKWA. Okay, sir; if you want me to I will be very happy to explain that.

Senator SYMINGTON. You would know whether it violates security or not. But I just asked you why you left the CIA.

Mr. SAKWA. All right.

I don't have the exact dates, but perhaps around—when I was still working in the Far East division I had previously worked in the International Organizations division for Cord Meyer, Jr., who is now in London at our Embassy there.

Senator SYMINGTON. I didn't hear you.

Mr. SAKWA. Cord Meyer, Jr. I had worked for what they call IO division.

Senator SYMINGTON. You say he is now where?

Mr. SAKWA. He is now in London in our Embassy there. And I had been engaged in certain kinds of operations where I feel that too much injection of CIA money and control would be detrimental to U.S. policy, and would in effect benefit the Soviet economy.

Senator SYMINGTON. In other words, you were in covert operations, is that what you were saying?

Mr. SAKWA. Oh, yes.

Senator SYMINGTON. What did that have to do with your leaving the Agency?

Mr. SAKWA. I brought my impression of those operations to the attention of two White House aides, Arthur Schlesinger, Jr., and Ralph Dungan, who was special assistant to President Kennedy. And I said, what can be done about this?

Senator SYMINGTON. Done about what?

Mr. SAKWA. I am not going into detail, Senator, but I can sort of give you the picture.

Senator SYMINGTON. For whom were you working at that time?

Mr. SAKWA. I was working for the Far East division at that time.

Senator SYMINGTON. And who headed up this division?

Mr. SAKWA. Desmond FitzGerald.

Senator SYMINGTON. And Mr. FitzGerald is dead, yes? And he is the one that gave you your instructions?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. Of course, he is not here to discuss the matter with us—

Mr. SAKWA. Unfortunately that is so.

Senator SYMINGTON. Did you think that he was the same kind of a person as Mr. Colby?

Mr. SAKWA. Senator, he was in charge of the Far East division, and he made policy.

Senator SYMINGTON. Would you call him an uncontrollable agent?

Mr. SAKWA. I don't know that. I know about Mr. Colby, because I used to send Mr. Colby dispatches and cables. Now, I didn't have a close relationship with Mr. FitzGerald.

Senator SYMINGTON. You worked for Mr. FitzGerald, and you only saw Mr. Colby once, and you met in the State Department, but you knew him better than Mr. FitzGerald, is that right? I am just trying to get the story straight.

Mr. SAKWA. No, I wouldn't say I knew him better. I knew of his performance, or nonperformance.

Senator SYMINGTON. I thought I saw something about Mr. FitzGerald in your statement here, but I guess I was wrong.

Mr. SAKWA. If you want me to continue, sir, on why I left the agency, I will be happy to complete that story.

Senator SYMINGTON. All right. Why don't you go ahead?

Mr. SAKWA. At the request or permission of two White House aides during the administration of President Kennedy, I drafted a memo on certain kinds of international operations which, in the process of being typed by my secretary on a Sunday afternoon, was intercepted by one of my superiors in the Far East Division. The memo was addressed to the President of the United States. I don't think it has been done very often. And it caused a bit of a furor.

Senator SYMINGTON. Your memo to the President?

Mr. SAKWA. I had addressed a memo to the President.

Senator SYMINGTON. And it was intercepted?

Mr. SAKWA. It was intercepted by one of my superiors.

Senator SYMINGTON. Who intercepted it?

Mr. SAKWA. I think it could have been Bill Jones.

Senator SYMINGTON. Bill Jones?

What was he doing?

Mr. SAKWA. Well, we worked odd hours sometimes in the Agency, and he happened to be in on Sunday when my secretary was typing this up for me.

Senator SYMINGTON. How did you know he intercepted it?

Mr. SAKWA. My secretary told me.

Senator SYMINGTON. That he took it from her?

Mr. SAKWA. Yes.

Senator SYMINGTON. How did he know you had written it?

Mr. SAKWA. My name was on it, and she was my secretary.

Senator SYMINGTON. Did he come and ask for it, or did he get it in the mail, or how did he do that?

Mr. SAKWA. No, she was typing it at the time. I don't know how much she had been able to type, but he took the draft that had already been typed—

Senator SYMINGTON. He asked her for it and she gave it to him?

Mr. SAKWA. Sir, he was my boss, and there was no question that he could ask for it and get it.

Senator SYMINGTON. Did you have the same office space together?

Mr. SAKWA. We were rather crowded in temporary buildings at the time, and I think my secretary was in my office—we had the same space. I was not there at the time.

Senator SYMINGTON. What I am trying to get at, then, did he look at your mail or did he just happen to see this particular item that he wanted?

Mr. SAKWA. He was in that day, and he heard a typewriter going, and he opened the door, and my secretary was typing a memorandum for the President.

Senator SYMINGTON. How did he know it was for the President?

Mr. SAKWA. It was addressed that way.

Senator SYMINGTON. Did he go and look at what she was typing?

Mr. SAKWA. Yes, sir.

Senator SYMINGTON. Is that the first time he ever did that?

Mr. SAKWA. As far as I know, yes.

Senator SYMINGTON. And it was just by coincidence that he happened to look at what your secretary was typing?

Mr. SAKWA. I do think it was by coincidence, yes, there is no reason to believe otherwise.

Senator SYMINGTON. Thank you. Now, will you proceed?

Mr. SAKWA. Well, when I learned about this I guess—my secretary told me that day—and when I came in Monday morning I must say it was a very strange day in my life. It was very quiet. No one would drop a pin.

Senator SYMINGTON. Did you generally drop—I am trying to follow you there—did you generally drop pins every morning?

Mr. SAKWA. Usually when it is quiet you do that, I understand.

Senator SYMINGTON. Did you keep some pins in your pocket?

Mr. SAKWA. Paper clips.

I was called into the office of the Inspector General. And that was Lyman Kirkpatrick at the time. And he questioned me about this.

And he called me in, I think, a few days later and told me that the memo had been given to an Allan Dulles, and that Mr. Dulles thought it was not a bad memo.

Senator SYMINGTON. How do you know that?

Mr. SAKWA. This is what Mr. Kirkpatrick told me.

Senator SYMINGTON. That Mr. Dulles thought the memo was all right?

Mr. SAKWA. He thought it was a pretty good memo, there were some inaccuracies. And as we always say, I didn't have all the facts. This is the big excuse everywhere, no one has all the facts. Someone suggested earlier today that the Director of Central Intelligence doesn't have all the facts. In any event, Mr. Kirkpatrick told me that Mr. Dulles thought it was important enough and worthy enough to be sent over to the White House. But since it was a classified document, it would be sent through CIA channels. And I was enormously flattered by this. And I called Ralph Dungan, and I said, I have a little trouble here, my memo got intercepted. But the memo will be sent over to your office.

And so Ralph began to wait for it. He waited week after week after week. I recall from time to time I insisted that he had received it. The secretary tore the office apart and couldn't find it.

Finally, I got in touch with Mr. Kirkpatrick, and asked him what had happened. And then in an offhand way he said, we decided not to send it to the White House.

I had a certain opinion of Mr. Kirkpatrick, but I don't want to take up the valuable time of this committee.

Senator SYMINGTON. Is that the Mr. Kirkpatrick who is at Brown University now?

Mr. SAKWA. Yes, sir. That is him all right. I know where he is.

Senator SYMINGTON. I am beginning to think from your testimony that you don't approve of Mr. Kirkpatrick.

Mr. SAKWA. Sir, you are correct there, yes. You are very discerning.

Of course, I was in trouble then. So Mr. Bissell, who was then Deputy Director of Plans, called me down to this office, and we had a little discussion about this. And while we were going through this he asked me, he said, "I understand you've been working on Vietnam. How are things there?"

And I said, "Sir, things there are a disaster."

And he said, "What?"

And I said, "Yes, they are a disaster."

And he said, "Well, golly, if you feel that way, we'll have to take you out of the FE division." And he said, "Did you ever see Des Fitzgerald?"

And I said, "Only, sir, in the john."

And he said, "Well, with your attitude on Vietnam——"

And I indicated that I was a good soldier, carried out my orders——

Senator SYMINGTON. You see, the reason I'm asking these questions—and I am sure you were a good soldier—is that you have talked about a lot of people so far, Mr. Dulles, Mr. Kirkpatrick, Mr. Bissell, and Mr. Jones. But what we are here for now is to discuss the confirmation or possible confirmation of a recommendation for the Direc-

tor of the Central Intelligence Agency. And during all this period did you have any connection with Mr. Colby?

Mr. SAKWA. Only the dispatches and cables.

Senator SYMINGTON. I beg your pardon.

Mr. SAKWA. Only by sending cables to the field and receiving reports from the Saigon station.

Senator SYMINGTON. And as I understand it, you felt that those cables were incorrect, is that correct?

Mr. SAKWA. I wouldn't say they were all incorrect, sir. I think that there is a pattern there of misinformation or slanting of intelligence. When Mr. Colby's lesser reports came to Washington that indicate—

Senator SYMINGTON. You just felt he was supplying this information, is that correct?

Mr. SAKWA. Sir, I refer to CS3/475063. And I quote: "It was clear that the President wanted a solid majority everywhere on his own merits."

This refers to President Nguyen Diem.

Senator SYMINGTON. The reason I remember Mr. FitzGerald's name, the Chief of the Far East, as you pointed out, for whom you worked and who is now deceased, you said in your statement:

Although I have indicated to Mr. Bissell that I could not account for Mr. Colby's strange performance in Saigon, there is a possible explanation. I have no proof of this: an unofficial effort on the part of senior CIA officers to worsen the situation in South Vietnam so that a greater military presence would be justified and an early nuclear confrontation with Communist China might take place. Among others, Charles S. Whitehurst (Chief VCL) and possibly Desmond FitzGerald (Chief FE) were of this mentality.

Mr. SAKWA. That's right, sir.

Senator SYMINGTON. We may have some more questions that we would like you to answer for the record, Mr. Sakwa.

Senator Nunn, any questions?

Senator NUNN. No questions.

Senator SYMINGTON. Thank you for your testimony.

Mr. SAKWA. I want to thank the committee for this opportunity.

Senator SYMINGTON. It is a privilege to have heard you, sir.

The next witness is Mr. David Harrington.

Mr. Harrington, do you have a prepared statement?

Mr. HARRINGTON. Yes, sir.

Do you want to swear me in first, sir?

Senator SYMINGTON. Yes, I would like to swear you in first.

Will you raise your right hand.

Will you swear that the information you give this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HARRINGTON. I do.

Senator SYMINGTON. Will you proceed?

**STATEMENT OF DAVID SHERIDAN HARRINGTON,
WASHINGTON, D.C.**

Mr. HARRINGTON. My name is David Sheridan Harrington, and I reside at 105 Ferry St. NW., Washington, D.C.

The events I am about to describe occurred in early 1969 while I was assigned to CORDS/Vietnam as a program officer at the I Corps regional headquarters. At that time I was a first lieutenant in the U.S.

Marine Corps and on a voluntary extension of an initial 13-month tour in Vietnam. My selection into CORDS was based on my combat infantry experience, my fluency in Vietnamese and French, and my training in psychological operations. Since then, I completed my 3 years of active duty in March 1970, and resigned my commission at the end of my 6-year service obligation.

The possible confirmation of Ambassador William E. Colby as the Director of Central Intelligence disturbs me because I have believed for a long time that he has never explained fully the Phoenix program at its operation level. Furthermore, he has never, to my knowledge, offered anything more than vague statements on his efforts either to cease the widespread killings occurring under the Phoenix program or to divest the United States of any involvement in the assassination of Vietnamese civilians.

Specifically, in testimony before the Committee on Government Operations in 1971, Ambassador Colby answered questions on the Phoenix program by resorting to evasive and misleading bureaucratic language to distinguish Phoenix policy from operations, and to claim that only a few abuses occurred at the local level, and those without the approval of Phoenix administrators.

However, I attended a meeting in 1969 at which Mr. Colby was told directly about the operational problems of Phoenix, and the many abuses occurring at the local level. From this briefing, he could only conclude that large gaps existed between Phoenix policy in Saigon and operations in the field. Until Mr. Colby provides a complete report of the Phoenix program and his role in it, I believe that Mr. Colby's involvement in Phoenix raises a serious question as to his suitability for high Government office.

Not long after my assignment to DaNang, either in late February or early March 1969, I was informed by the Deputy for CORDS in I Corps, Mr. Alexander Firfer, that Mr. Colby was coming up for a high level briefing on the status of pacification. Since I had prime responsibility for all statistics and briefing materials, this important meeting stands out in my mind. I was invited to attend the meeting to provide backup information as needed and to take notes. This opportunity pleased me because I was very interested in meeting officials from Saigon and hearing a discussion on pacification.

The meeting was held in the second floor conference room of CORDS regional headquarters at 22 Bach Dang, DaNang. Present at the meeting from Saigon were Ambassador Colby, Mr. George Jacobson, and Colonel Montague; from DaNang, Mr. Firfer, his deputy Mr. Fritz, myself, and Mr. Harry Mustakos, the regional CIA Director. Two other senior DaNang staff, Robert K. Olson and Robert Mills, attended portions of the briefing.

The initial phase of the meeting lasted about 1½ hours, and included a briefing by my boss and subsequent questions, answers, and discussion of the presentation. Mr. Colby had prepared thoroughly for the briefing, and asked pointed questions on all phases of the pacification program. Mr. Mustakos was in turn to make a presentation. I knew very little about Mr. Mustakos besides his position and the fact that many CORDS people, myself and my boss included, had serious questions about the known CIA agents who carried luger pistols and folding stock automatic rifles. Rumors were fairly widespread that these

covert operators were engaged in a very dirty war with the Vietcong and their sympathizers.

Mr. Mustakos appeared quite defensive from the beginning of his presentation. After a few moments I learned that it was due to complaints from Saigon about I Corps' poor quality intelligence and low neutralization rate of quality Vietcong Infrastructure (VCI). Mr. Colby nodded in such fashion that he was acknowledging his concern and his desire to hear Mr. Mustakos' defense. Mr. Mustakos focused on three areas of discussion in responding to Saigon's criticisms: One, the low quality of operational groups such as Provisional Reconnaissance Units (PRU's); two, the high number of VCI killed before possible interrogation; and three, a criticism of Saigon pressure for high quality VCI. Mr. Mustakos was drawing a clear picture of the Phoenix program at the local level in order to ward off what he considered bureaucratic harassment.

The logic of Mr. Mustakos' presentation moved very clearly toward a sound defense for his efforts in I Corps. He began with the fact that the ill-disciplined nature of the PRU's resulted in very poor operational control over these PRU's by his agents. As a result of the poor discipline and lack of control, many alleged VCI were killed instead of captured. These killings took place away from CIA supervision and consequently, Mustakos could not guarantee who was killed and certainly could not collect more information on the VCI from these dead Vietnamese. Mr. Mustakos gave the general example of a nervous PRU unit out on assignment in Vietcong territory killing a struggling Vietnamese suspect with a silencer-equipped pistol for fear of attracting attention. At this point, Colby interjected that killing was not CORDS policy regardless of breakdown at the local level.

Senator SYMINGTON. Let me interrupt you there.

Who were members of the Provisional Reconnaissance Unit?

Mr. HARRINGTON. This was not outlined completely in this particular briefing. That is why I did not mention it. But as I understand it, the Provisional Reconnaissance Unit—the members of the Provisional Reconnaissance Unit were recruited by the national police from hoodlums or thugs or people who were at least willing to engage in covert activities against the Vietcong.

Senator SYMINGTON. Were there any Americans in those units?

Mr. HARRINGTON. No; I stated that, I believe, earlier in my testimony.

Senator SYMINGTON. I just want to be sure that the Provisional Reconnaissance Units were Vietnamese.

Mr. HARRINGTON. That's correct, although I will add that in 1971 testimony, Ambassador Colby did acknowledge the fact that Americans did on occasion accompany groups such as the PRU's on covert operations, but that is the extent—the extent of my knowledge.

Mr. Mustakos found the quota system from Saigon particularly vexing in that he considered himself an operations type and had little use for bureaucratic demands. He used the allegory from Mao about the sea and the fishes to present his view on the status of guerrilla warfare in I Corps. He stated that the sea had been rolled back (that is, the civilian population had largely been driven to the edge of the sea by the advent of bombing and free-fire zones) and what were left was fish (that is, VCI). Mr. Mustakos then asked what difference

does it make whether we get big fish or little fish. His aim was to obtain permission to include all Vietnamese suspects neutralized in his monthly VCI quota. Mr. Colby gave no response at this point.

The clear understanding gained from the Mustakos briefing was that many abuses occurred at the operational level of the Phoenix program, including widespread and uncontrolled assassinations.

My difficulty with Mr. Colby's possible confirmation sharpens in light of his testimony before the House Committee on Government Operations, particularly on pages 206 and 207. This is the 1971 testimony. There, Ambassador Colby limited his knowledge of abuses to some isolated acts by individuals. Furthermore, he added that it took CORDS nearly 3 years to refine the intelligence gathering system to the point where they were reasonably sure that a Vietnamese civilian was actually a member of the VCI. Today, I have told you that Ambassador Colby was briefed in 1969 about a poor program involving widespread abuses, including murder. Yet, Mr. Colby allowed this program to continue for another 2 years, apparently without any better assurance that those killed were anything more than innocent Vietnamese civilians.

Hopefully, my testimony has provided a clear base for understanding the important questions raised by Mr. Colby's role in Vietnam, and a firm direction for further inquiries into his knowledge of and involvement in the Phoenix program. Mr. Colby was informed of the widespread abuses at the operational level of the Phoenix program in at least one region. What did he learn about operations elsewhere in Vietnam? If he knew of the abuses in the program and the lack of hard information on VCI, why did he allow the number of "VCI killed" to continue to climb in 1969, 1970, and 1971? What specific actions were taken, or specific directives issued to disengage U.S. support of Phoenix? What specific restraints were placed on Phoenix operators as a result of Mr. Colby's learning of abuses in the Phoenix program? What requirements for the reporting of war crimes did Mr. Colby initiate to insure feedback on abuses in Phoenix?

I believe a full acquittal on all charges against the Phoenix program and Mr. Colby's direction of it to be a minimum requirement for his confirmation by the U.S. Senate.

Senator SYMINGTON. Thank you, Mr. Harrington.

I have been to DaNang myself several times during the war. The Vietcong were pretty active up there, were they not?

Mr. HARRINGTON. Yes, sir.

Senator SYMINGTON. And many people were killed up there by the Vietcong, were they not?

Mr. HARRINGTON. Yes, sir; I believe that Ambassador Colby submitted figures on that which indicated that the Vietcong terrorism resulted in 12,000 Vietnamese being killed, whereas the Phoenix program had resulted in over 21,000 Vietnamese civilians being killed.

Senator SYMINGTON. Don't misunderstand me, I regret this war, but I would just like the record to show that General Walt, who was in command, and later General Cushman, who was in command—

Mr. HARRINGTON. And General Nickerson was there.

Senator SYMINGTON. I will only talk about the ones I saw there starting in 1965 in command. They were very upset about the Vietcong attacks on other Vietnamese and the village chiefs and also Americans.

As I understand it, your primary concern about this nomination is that you feel that Mr. Colby was responsible for the Phoenix program?

Mr. HARRINGTON. Yes, sir; I believe that as the director of CORDS program he had an operational overview of the Phoenix program, and therefore should have reported these abuses to the higher authorities back in Washington. And what really particularly concerned me, I was not in Washington following the 1971 testimony very closely at that time, I was out in California on vacation. But what would concern me on reading this afterward was that I felt on direct questioning, particularly from Congressman Reid—and I have the testimony here and I could read excerpts which indicate that at least before Congress he used at least evasive and misleading language in suggesting the extent of the abuses in the Phoenix program. And as the Senator says, on the basis of his own visit to DaNang, I think the Senator was aware of more widespread abuses that he acknowledged in testimony before the House. And that is the concern that I bring to the Senate, in the hope that this situation can be cleared.

Senator SYMINGTON. Have you evidence that he did not report this to his superiors in Washington?

Mr. HARRINGTON. No, sir; I don't. I was not privy, of course, to his line of communication with his seniors. I only have the public testimony from the House to really go on as a guide.

Senator SYMINGTON. So what concerns you the most, as I understand it, is what he said with respect to the Phoenix program before the House committee?

Mr. HARRINGTON. That is correct, sir.

Senator SYMINGTON. And what committee was that again?

Mr. HARRINGTON. The House Committee on Government Operations. I have just a brief excerpt here that I could read.

Senator SYMINGTON. That is all right. I think we got the thrust of it. If you want to put it in the record you are welcome to do so.

Senator Nunn.

Senator NUNN. I just have a few questions, Mr. Chairman.

Mr. Harrington, what do you do now?

Mr. HARRINGTON. Right now I am the director of a day care center here in Washington, D.C., for preschool children.

Senator NUNN. How long were you in the service?

Mr. HARRINGTON. I was in the Marine Corps on active duty for 3 years, 3 months; 3 months at officer candidate school in early 1967, and then a formal commissioning on March 4, 1967, and I served my 3 years as an officer in the Marine Corps. And when I resigned my commission, at the time I was a captain in I Corps.

Senator NUNN. You got out in 1970?

Mr. HARRINGTON. Yes, sir, March 24, 1970.

Senator NUNN. And what were the dates you were in Vietnam?

Mr. HARRINGTON. I was in Vietnam as a Marine infantry officer from December of 1967 until December of 1968.

Senator NUNN. From 1967 to 1968?

Mr. HARRINGTON. Yes, sir—1967 to December 1968 as a Marine Corps officer. I extended my 13 months' tour of duty with the Marine Corps specifically on the basis of a very disillusioning experience as an infantry officer to go into the pacification program and to become involved in that in the hope of seeing a better situation. It is not perti-

nent to my testimony here, so I didn't discuss it. But that situation didn't turn out very well, unfortunately.

Senator NUNN. Did you hear Mr. Adams' testimony this morning to the effect that the Phoenix program was meant to replace the bludgeon with a scalpel and that, instead of bombs I am quoting him:

Instead of bombs—which killed large numbers of civilians in addition to the occasional political operative of the Viet Cong—Phoenix's main tools, theoretically, were good intelligence and good files. The object of the program was to find out who among the Vietnamese population were Viet Cong cadres, and to arrest or kill them. In theory, arrests were preferable to assassinations, because a prisoner could lead to further arrests * * *

Did you read that testimony?

Mr. HARRINGTON. I heard the testimony, but I didn't catch that.

Senator NUNN. In theory, arrests were preferable to assassinations because a prisoner could lead to further arrests.

Mr. HARRINGTON. I will agree to it at that point. I think the theory was definitely the CIA theory for the development of the program. And in that connection I would just like to say parenthetically that at one point in the discussion this morning, I think between Senator Symington and Congressman Drinan, there was the inference made that the Phoenix program was a Vietnamese program, and that the Americans unfortunately inherited it. And I would like to just parenthetically question that by saying that Ambassador Colby himself under testimony agreed that the CIA was more than one-half responsible for the creation and development theory, et cetera, of the Phoenix program.

But in returning to your question, I would just like to say that with regard to replacing bombing with the Phoenix program, that that image of the scalpel instead of the bludgeon is correct. However, I do take exception to the statement that arrest was better than assassination, because the Phoenix program had three categories of neutralization—neutralization was a general term used to describe killing, rallying, and arrest. And so arrest was not used instead of assassination, arrests and assassinations were two of three vehicles used to neutralize so-called Vietcong suspects.

Senator NUNN. You are saying that was part of the overall Phoenix program in theory, assassination was part of it?

Mr. HARRINGTON. Yes, sir. Ambassador Colby submitted testimony which shows figures for three categories: Vietcong killed, Vietcong captured, and Vietcong neutralized.

Senator NUNN. Some of those figures had to do with Army and military troop killing, didn't they?

Mr. HARRINGTON. Yes, sir. The largest figures would include those operations, although even in pinning it down as he did to only 10 percent covert operations, which was his operational definition, or understanding of what was going on, we are still talking minimally of 3,000 to 4,000 Vietnamese civilians.

Senator NUNN. What I am judging by is, your statement made it rather clear, I thought—I believe at page 4 at the bottom you said in the conversation I suppose you heard, at this point Colby interjected that killing was not the CORDS policy regardless of breakdown at the local level.

Mr. HARRINGTON. Yes, sir. In a sense—in this sense only. As Mr. Adams explained much more clearly than I could, because his back-

ground is as an analyst for the CIA, the thrust of the program was to capture Vietcong infrastructure types in order to gain more intelligence on the Vietcong. However, as Mr. Adams has testified, and as Ambassador Colby himself has acknowledged, and as I have stated myself today, that did not work out. That just did not work out. Many, many Vietnamese civilians were killed during the alleged capturing event at a time when the targeting, as pointed out from Ambassador Colby's testimony, was so weak that he could not in any way guarantee that those people were anything more than innocent Vietnamese civilians.

Senator NUNN. Are you implying that if there had been no Phoenix program there would have been no killing by the South Vietnamese? Are you implying that had there been no Phoenix program there would have been no rounding up of political prisoners?

Mr. HARRINGTON. Well, certainly there would not have been U.S. support or involvement in that.

Senator NUNN. You are talking about our involvement?

Mr. HARRINGTON. Absolutely. I am talking about Ambassador Colby today and not about the Vietnamese.

Senator NUNN. But the only testimony you can give us as far as Mr. Colby was concerned is that killing was not part of the policy?

Mr. HARRINGTON. Yes, sir. And at the same time—which was significant in the sense that at this meeting he made a distinction between policy in Saigon and operations in the field. But even in his 1971 testimony he continues to make this at the stages when he was in fact being told that this was happening at the operations. And I think this is alarming, a program by his figures when over 20,000 Vietnamese civilians were killed during a year period when he wasn't sure that they were at all involved in Vietcong operations.

Senator NUNN. You don't know what actions he took with the South Vietnamese, nor do you know what actions he reported back to his superiors, nor do you know what the recommendations were on this subject, do you?

Mr. HARRINGTON. No, sir. I am asking the Senators to make that clear on the public record prior to his confirmation by the Senate.

Senator NUNN. I think these questions ought to be asked.

I appreciate your appearance.

Senator SYMINGTON. Thank you, Mr. Harrington.

The next witness is Mr. Kenneth Osborn.

Mr. Osborn, will you raise your right hand.

Do you swear the testimony that you give this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. OSBORN. I do.

TESTIMONY OF KENNETH BARTON OSBORN, WASHINGTON, D.C.

Senator SYMINGTON. Do you have a statement?

Mr. OSBORN. Yes, sir. I submitted a statement to the committee earlier. I would like to read that.

Senator SYMINGTON. I would like you to read the statement that you submitted to the committee.

Mr. OSBORN. Very well, sir.

My name is Kenneth Barton Osborn. I have lived in Washington, D.C. for the last 4 years. My present address is 1112 East Capitol

Street NE. I come before the committee today to describe my involvement and firsthand knowledge of the Phoenix program, and to present facts and documents which will show how that program has been one of continued illegal practices, including gross examples of torture and assassination, from 1968 to present.

Since December 1970, when I first spoke about the Phoenix program publicly, I have become increasingly concerned that the Congress and the public be made aware of our country's sponsorship and encouragement of these practices in Southeast Asia. In August 1971, I testified before the House Subcommittee on Foreign Operations and Government Information concerning the atrocious treatment of South Vietnamese civilians which I had witnessed in 1968. This is a copy of my testimony along with the followup report of the committee. Both of these documents will be discussed in my testimony.

In the next few moments I would like to state to this committee the danger, both to U.S. prestige abroad and to the welfare of many potential victims of programs such as Phoenix, of allowing an individual with the record which Mr. William E. Colby has, to be trusted with the powerful position of Director of Central Intelligence.

Since I am more at ease talking from notes rather than from a prepared text, I would like to provide the members of the committee with an outline of the testimony I will now begin.

Senator SYMINGTON. I don't quite understand that.

Mr. OSBORN. I have made an outline there which I would like to use as an outline for what I would like to say.

Senator SYMINGTON. I would rather have you read what you have given us. That is the rule, and then you can supply anything additional for the record. It is getting late now, and we have been here all day. And, if necessary, we will ask you to come back.

Mr. OSBORN. I understand. That is very kind.

I have here (1) Army Intelligence; I was in Army Intelligence from 1966 to 1969.

I was in Vietnam in the Occupational Specialty and Training of 97C40, Air Intelligence Specialists, which is an agent handler. I was trained at Fort Holabird for that job.

My assignment to the 525th Military Intelligence Group was from September 1967 to December 1968.

Senator SYMINGTON. Are you reading from your statement?

Mr. OSBORN. Here is the outline, Senator.

Senator SYMINGTON. Will you read the outline that you have given us, please?

Mr. OSBORN. No. 2, my assignment to Da Nang—if I am given a chance I would like to discuss my cover status, my agent handler job. The liaison I had with the units, and my contact with the Phoenix program, the collection of information, both combat and political, the dissemination of information, and describe how the overlap of civilian and military operations occurred so that Phoenix special intelligence collection requirements applied both to civilian and military operations, and the followup reports which I received back from the units of my information, which included followups to those reports of B-52 strikes, search and destroy missions and detainment of the Viet Cong suspects. I would like to describe the mentality of the operation while I was in Vietnam, the mind set of those operations and their approach

to the operations, and the resultant abuses. And in particular, I would like to describe interrogation methods I saw firsthand, including specific interrogation of South Vietnamese detainees and how they resulted in the murder of my interpreter in the spring of 1968 by an American captain out of racism.

And I say, I had recounted these incidents before the House subcommittee hearings in 1971. As a result the subcommittee, under the able chairmanship of Representative William Moorhead, directed the DOD to investigate the charges that I had made. Their report, submitted by Assistant Secretary of Defense Doolin to the staff of the committee 15 months later, was an obvious attempt to minimize the significance of the incidents and even went to some extent to reflect upon my credibility as a witness. If the office of Mr. Doolin is not interested in examining the policies and practices which led to widespread mistreatment of civilians under American advisorship, then I sincerely hope that this committee will look into the evidence presented today.

It is my contention that while Mr. Colby has consistently claimed that it was his desire to improve the Phoenix program and to discourage the use of torture and assassination, that, in fact, during his directorship of CORDS/Phoenix and since, that inhumane practices have not only continued but increased. In support of this statement, I would like to present two documents, the Newsweek article from July 23, 1973, issue, that is this week's Newsweek, wherein is described the torture and detainment of civilian political offenders under the An Tri law; and more recently, a telegram which was issued on April 5, 1973, by one of the South Vietnamese directors of the Phoenix program stating that it would be accepted policy to broaden the spectrum of the Phoenix mistreatment of civilians, and that they no longer had to be called Communists, that they could be called simply disturbers of the peace, and they cover An Tri laws, the detainment of 2 years multiplied by any number of detainment years applied to them.

Mr. Colby no doubt maintains that this sort of torture and murder which I witnessed in Vietnam were before his time, and that he acted responsibly in dealing with such incidents, but that would be untrue. I call upon Mr. Colby to present evidence that the documents and facts which I have submitted today do not reflect seriously on his ability to apply human values to his duties as a representative of the American people and a public servant.

[The statement follows:]

My name is Kenneth Barton Osborn. I have lived in Washington, D.C. for the last four years. My present address is 1112 East Capitol St. NE. I come before the Committee to describe my involvement and first hand knowledge of the Phoenix Program, and to present facts and documents which will show how that program has been one of continued illegal practices, including gross examples of torture and assassination, from 1968 to the present.

Since December, 1970, when I first spoke about the Phoenix Program publicly, I have become increasingly concerned that the Congress and the public be made aware of our country's sponsorship and encouragement of these practices in South East Asia. In August, 1971, I testified before the House Subcommittee on Foreign Operations and Government Information concerning the atrocious treatment of South Vietnamese civilians which I had witnessed in 1968. This is a copy of my testimony along with the follow-up report of the committee. Both of these documents will be discussed in my testimony.

In the next few moments I would like to state to this committee the danger, both to U.S. prestige abroad and to the welfare of many potential victims of

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programs such as Phoenix, of allowing an individual with the record which Mr. William E. Colby has, to be trusted with the powerful position of Director of Central Intelligence.

Since I am more at ease talking from notes rather than from a prepared text, I would like to provide the members of the Committee with an outline of the testimony I will now begin.

I. Army Intelligence—1966-1969:

- a. Military Occupational Speciality and training.
- b. Assignment to the 525th Military Intelligence Group.

II. Assignment to DaNang:

- a. Cover.
- b. Status.
- c. Agent Handler job.
- d. Liaison with units.
- e. Contact with Phoenix.

III. Collection of Information:

- a. Combat.
- b. Political.

IV. Dissemination of information:

- a. Overlap of military and civilian operations.
- b. Follow-up reports (B-52 strikes, search and destroy missions and detainment.)

V. Mentality of operatives in Vietnam:

- a. mind-set.
- b. resulting abuses.

VI. Interrogation methods:

- a. Three examples.
- b. Interpreter.

I have recounted these incidents before the House subcommittee hearings in 1971. As a result the subcommittee, under the able chairmanship of Representative William Morehead, directed the DoD to investigate the charges that I had made. Their report, submitted by Assistant Secretary of Defense Doolin to the staff of the Committee 15 months later, was an obvious attempt to minimize the significance of the incidents and even went to some extent to reflect upon my credibility as a witness. If the office of Mr. Doolin is not interested in examining the policies and practices which lead to wide-spread mistreatment of civilians under American advisorship, then I sincerely hope that this Committee will look into the evidence presented today.

It is my contention that while Mr. Colby has consistently claimed that it was his "desire" to improve the Phoenix Program and to discourage the use of torture and assassination, that in fact during his directorship of CORDS/Phoenix and since, that inhumane practices have not only continued but increased. In support of this statement, I would like to present two documents:

* Newsweek article, July 22, 1973.

* Telegram.

Mr. Colby no doubt maintains that this sort of torture and murder which I witnessed in Vietnam were before his time, and that he acted responsibly in dealing with such incidents, but that would be untrue. I call upon Mr. Colby to present evidence that the documents and facts which I have submitted today do not reflect seriously on his ability to apply human values to his duties as a representative of the American people and a public servant.

COMMITTEE FOR ACTION/RESEARCH ON THE INTELLIGENCE COMMUNITY,
Washington, D.C., July 23, 1973.

HON. STUART SYMINGTON,
Acting Chairman,
Senate Armed Services Committee,
Washington, D.C.,

DEAR SEN. SYMINGTON: As a follow through to the testimony I presented to the Committee on July 10, 1973, I wish to submit the attached Supplementary Statement for inclusion in the official record.

Senator Nunn has requested that I furnish the Committee with the name of the U.S. Army Captain that murdered my Vietnamese translator. I have always believed that doing so would only result in a scapegoating of the Captain, and

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the total question of de-facto and written military policy would be completely ignored.

I have now decided that I will release the name of this man to the Committee with stipulation. If the Senate Armed Services Committee will guarantee that open and public hearings on the matter of U.S. war crimes and military policy, I will immediately release the name of the Captain. My decision is based on the fact that I still believe that anything less than a full and public hearing into these matters will only result in another cover-up of the truth by the military and their civilian allies.

Concerning the Senator's personal interest in the appearance of President Dwight David Eisenhower's name on a list of U.S. officials responsible for the Pacification effort, I would like to take this time to again point out that the list in question is one concerning the entire pacification effort, not only the Phoenix Program. As the Senator already knows, President Eisenhower did allow John Foster Dulles to send Edward Geary Lansdale to Vietnam as a pacification advisor during the Eisenhower years. The inclusion of President Eisenhower's name was necessary to complete the historic overview that led to the Phoenix Program.

I stand ready to further the Committee's investigation into the Phoenix Program and the nomination of Mr. William E. Colby, and request that this cover letter also be made part of the record.

Sincerely yours,

K. BARTON OSBORN.

SUPPLEMENTARY STATEMENT OF MR. K. BARTON OSBORN

After my enlistment in the U.S. Army on October 10, 1966, and basic military training at Fort Bragg, North Carolina, I was assigned to a classified military intelligence training program at Fort Holabird, Maryland. I was trained in the Military Occupation Specialty of 97C40, Intelligence Area Specialist. My training was designed to prepare me as an agent handler, and consisted of classes designed to teach recruitment and training of agents and the management of agent networks. Included in the training course was an off the record session concerning the termination of agents through various methods, including assassination.

After the completion of my training and a leave period prior to assignment, I reported to the First Battalion, 525th Military Intelligence Group, in Da Nang, South Vietnam, in September, 1967. I was given a civilian cover as a GS-7 (later promoted to GS-9) working in the refugee program. For the first six weeks I was in Da Nang, I worked on the problem of establishing my own network of agents.

When my agent network was established to the strength of 40 to 50 agents, I began to relay information they gathered on Viet Cong and North Vietnamese military activity. In addition to combat information, I received information of a political nature; information on the political activities of Vietnamese not overtly involved with military actions.

Through the reports sent to me describing the follow-through actions initiated as a result of my intelligence gathering, I was able to ascertain that the Phoenix Program was receiving and utilizing my information. Through my battalion and civilian contacts, I was able to identify the Phoenix Coordinator in Da Nang, and his location. I visited the Phoenix Coordinator, a U.S. Army major, and talked to him about the information that was laterally disseminated to him. He asked if I could gather more information, and told me that any information I gathered would be used in the context of the Phoenix Program. In return, I was guaranteed financial remuneration for my agents, the use of various "safe houses" for clandestine meetings, and access to Air America transportation. At no time did I make personal financial gains from this arrangement.

Thus, I became involved in the Phoenix Program. During the period that followed, until the time of my departure from Da Nang in December, 1968, I supplied information to the Da Nang Phoenix Coordinator on a regular basis.

The Phoenix Coordinator was not the only consumer of my intelligence reports. I continued to supply information to the First Marine Division, the 525th M.I. Group, as well as other military units. The prime difference between types of intelligence provided to military units and to the Phoenix Coordinator was that all information going to Phoenix was of a political nature, while information going to military units was both combat and political intelligence concerning troop movements and anticipated activity by North Vietnamese and National Liberation Front Forces, and on the Viet Cong Infrastructure, respectively.

From the follow-up reports that were routed to me, I was able to gauge the response of Phoenix and military personnel to the information I had channeled them. The Phoenix Program, while under the sponsorship of the office of Civil Operations and Rural Development Support (CORDS), was a joint military-civilian venture, and my follow-through reports reflected the intertwining nature of this fact. Among the typical responses that resulted from the information I supplied, I noticed that military units were utilized to carry out operations as a result of Phoenix information. For example, a Provisional Reconnaissance Unit (PRUs) may be dispatched to kidnap and detain for interrogation a suspected member of the VCI, or a B-52 raid may be called on a village in which suspected members of the VCI were reported to be meeting. As I was not a member of the Phoenix Coordinator's staff, or in the G-2 office, I had no way of knowing how the decisions were made to carry out such activity, but the follow-up reports did reflect these types of actions.

Before talking of the interrogation techniques used by American personnel, I would like first to explain the mind-set of intelligence operatives in Vietnam. To begin with, the nature of training during the period I was in basic training and intelligence school was permeated with a deep-seated racism. While the reasons for this may have been many and varied, few Vietnam veterans can claim that they were not affected by the racism to which they were exposed. The process of making a yellow person a non-human or a sub-human made possible the types of activities I am about to describe. The "abuses" that Mr. Colby talks of when speaking of murder and torture are not abuses as much as they are the logical extension and inexorable result of American policy, both written and de-facto.

In the course of my work in Da Nang, I was invited to witness the interrogation of a man whom my agents had identified as being a member of the local farmers association, and reported to be a Viet Cong logistics officer. The interrogation was conducted in a U.S. Marine helicopter by a Marine officer and two enlisted men. The suspect and a second Vietnamese national (who had been previously interrogated and beaten) were loaded into the helicopter and flown approximately 20 miles from Da Nang into an isolated area. The second detainee, the person I had not reported, was asked several questions but did not answer. The process of interrogating this second detainee was a ploy, as he had already been interrogated and beaten so badly that he was unable to speak. After threatening to throw the second man out of the helicopter several times, the man was asked a question again; when he could not or would not answer the question, he was tossed out of the helicopter by the Marines.

The man whom I had reported did talk and answer all questions put to him, but because he feared for his life, there was no way of guaranteeing the accuracy of the information. It is very logical that the man answered any question in such a manner as to satisfy the interrogator and save himself from being thrown from the helicopter by the Americans.

I took part in a second such interrogation about one month later, again with a second person thrown from a helicopter in order to intimidate a second person into talking.

One other occasion, I witnessed the protracted starvation of a Vietnamese woman suspect. She was kept in a cage in the First Marine Division Counter-Intelligence Team complex near Da Nang Airbase, without food or water. I passed her several times during the course of my trip to the team's office, and when I noticed she was gone one day, I was informed that she had died of malnutrition.

On another occasion, I was following through on a reported suspect that one of my agents had identified. The man was being interrogated at the Marine Counter-Intelligence complex, and I was invited to witness it. As I entered the hooch where the interrogation was taking place, the man was being taken out, dead. He died from a six inch dowel that pushed through his ear and into his brain.

One last incident that I would like to recount to the Committee concerns the murder of my interpreter by a U.S. Army Captain. My interpreter was of Chinese ancestry, born in Hue and educated in France. She was multi-lingual and operated as both an interpreter and a courier for me.

On an afternoon in the Spring of 1968, I returned to my house and was inside when I heard a shot. I went outside and found that my interpreter had been shot through the neck, and witnessed a Military Intelligence Captain leaving the scene. After tending to the body, I located the Captain and asked him why he had shot her. The Captain's initial response was that she was only a "slope" (a derogatory term for Asians) and that I should not be concerned about the incident. When I pressed the matter, the officer claimed that the woman knew too much about my operations and was a possible security risk. In fact, however,

this woman was central to the success of my intelligence gathering as I spoke little Vietnamese.

I hope that I have been able to show this Committee, through my testimony on July 20th and this supplementary statement, some of the realities of the Phoenix Program on the operational level. If I had to summarize my observations of the Phoenix Program, I believe that my training, operations in and knowledge of the Phoenix Program have shown me that:

1. The military was integrated into the Phoenix Program at both the operational and management levels.

2. That the training given to intelligence operatives is conducive to the types of activities conducted under Phoenix, as explained in this statement; both formal and informal training sessions teach "extra-legal" activities as being necessary to the successful completion of intelligence missions.

3. That while Ambassador William E. Colby was not in charge of CORDS while I worked in Phoenix, he was aware of the widespread use of assassination, kidnapping, and torture that he has termed "abuses." Ambassador Colby was also aware of the casualness and ineffectiveness of these operations, and the inability of Phoenix to neutralize the VCI through the use of these tactics.

4. If Ambassador Colby is to claim that he attempted to alleviate the symptoms of abuse, he must produce supporting evidence beyond directives explaining official policy. The Vietnam War was a war that utilized the unwritten and de-facto policies with the same consistency as official and written policy. Because de-facto policy was a fact of life at the operational level, Mr. Colby must show that he directed his energies and efforts towards eliminating the de-facto policies of Phoenix. Reports of war crimes committed by Phoenix operatives, with their follow-through reports, directives on the handling of war crimes incidents and complaints, and CIA documents showing the neutralization figures of Phoenix coupled with the analytical reports showing the effectiveness of Phoenix and the result of the neutralization efforts must be made public.

Senator SYMINGTON. Thank you, Mr. Osborn. You have added considerably in your testimony to the statement that you gave us. And if you have anything additional that you would like to add, would you supply it for the record?

Mr. OSBORN. That is very kind, Senator.

Senator SYMINGTON. That is the rule of the committee over the years.

I would like to get your position status in Vietnam clear. What was your rank in service when you first went there, and what was your rank when you left?

Mr. OSBORN. I was an enlisted man in Army Intelligence. I arrived in Vietnam in September 1967, as a private, first class. Sometime during my tour I was promoted to corporal, and then to sergeant as E-4 and E-5.

During the entire time that I was in Vietnam I was under a cover name and cover documentation as a GS-7 and a GS-9, working in the classification program.

Senator SYMINGTON. Where—were the atrocities that you alleged that you witnessed all committed by American military men?

Mr. OSBORN. They were in fact.

Senator SYMINGTON. Where were they committed?

Mr. OSBORN. In the DaNang area.

Senator SYMINGTON. In the DaNang area?

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. Do you know Mr. Colby?

Mr. OSBORN. No, sir; I have never met him.

Senator SYMINGTON. Have you ever seen him?

Mr. OSBORN. No; I have never seen him either.

Senator SYMINGTON. In what way do you believe Mr. Colby as a civilian head of CORDS program would have had the authority to give orders to the men involved in those alleged atrocities?

Mr. OSBORN. I believe it was Mr. Colby's responsibility to see that the Phoenix-initiated operations, such as I have participated in and which resulted in mistreatment of South Vietnamese civilians, were much more responsibly controlled, and if Mr. Colby had been inclined to so control his operations, then what I saw and witnessed firsthand as a rule would not have happened.

Senator SYMINGTON. You mentioned your intelligence officer assigned you was shot and killed.

Mr. OSBORN. No, I mentioned that an American captain in the streets of DaNang one afternoon murdered an interpreter of mine who was a South Vietnamese civilian.

Senator SYMINGTON. Now, we have asked about that in the Moorhead Committee, and the statement is:

An investigation revealed that personnel interviewed, to include Osborn's team chiefs, stated Osborn did not have a female interpreter assigned to him at any time. Personnel files on Osborn's unit reveal no employment record for any female interpreter of Chinese nationality or extraction. No evidence was obtained other than Osborn's testimony to indicate that an interpreter, male or female, had been killed. Records of Vietnamese Police Agency at DaNang or Vientiane for the period in question did not disclose the death of any person in the area, and under the circumstances described by Osborn. In a sworn statement to CID on the first of December, 1971, Mr. Osborn refused to identify the alleged victim or alleged assistant.

Mr. OSBORN. That is true.

Senator SYMINGTON. In his statement, however, he testified that the person in charge of the ICF killed the interpreter, contrary to his previous testimony before the subcommittee.

Are any of the facts wrong in this statement?

Mr. OSBORN. Yes, sir; in fact, I have just been handed an unclassified version of the secret document which was given to the House subcommittee, which is the result of investigative effort, which was previously classified a "Secret" and submitted by Mr. Doolin to that committee.

It contains considerably less evidence of the RIE's, the result of investigative effort, than the original document did. In this entire document, for instance, you have read points 1 and 2—let me read this, and I can tell you where it is inaccurate.

Yes, it says here: "Investigation revealed that personnel interviewed, to include Osborn's team chiefs"—I had two during my tour in Vietnam—"stated Osborn did not have a female interpreter assigned to him at any time."

I had two American team chiefs. They were in charge of several agent handlers in the area. The first of those two would have been fully knowledgeable of my employment of a Chinese Vietnamese national female interpreter in the spring of 1968. I had been given permission to hire her by my battalion people. And it was to expedite my operations, because I didn't speak Vietnamese, and I was debriefing Vietnamese agents. In fact, that was the interpreter who was killed. I can understand that the Army would not want to respond to those charges. I can understand that they would come out with a report like this that is inaccurate. But I have taken an oath before this testimony, and I swear to you at this time that the Army is not accurate in their reporting of this investigation of this incident. They haven't responded to the questions; they haven't responded to the policies; they haven't put their finger on any of the mentality.

of the entire battalion that I was with; the encouragement that I had to run the operations that I had; and the specific mentality of the marines who created the brutality as a result of Phoenix information which I submitted to them.

Senator SYMINGTON. Now suppose you take this document, if you will, from the Department of Defense, and point out for the record where they are inaccurate in their comment. Will you do that?

Mr. OSBORN. Shall I do that now?

Senator SYMINGTON. Not now, but take it and supply it to us for the record.

Mr. OSBORN. Fine. I will take this document and submit it for the record.

Senator SYMINGTON. We have the document. We have given it to you.

Mr. OSBORN. What are you asking me to do, Senator?

Senator SYMINGTON. To comment on its inaccuracy, or inaccuracies.

Mr. OSBORN. I am sorry, I just did for a few minutes—

Senator SYMINGTON. You did on one item; I would like you to do it for all items for the record, and supply it in writing.

Mr. OSBORN. I would be glad to. I will. When would you like that, as soon as possible?

Senator SYMINGTON. As soon as you can give it to us.

You left Vietnam in December 1968. And Mr. Colby became the head of CORDS in November 1968?

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. Is it your contention that all or any of the atrocities you describe occurred because of any specific action of Mr. Colby's?

Mr. OSBORN. It is my contention that they only happened as a result of the state of the Phoenix program before Mr. Colby took the directorship.

Senator SYMINGTON. Did you submit any official complaint about any of those atrocities while you were in Vietnam?

Mr. OSBORN. No, sir. They seemed to me at the time to be standard operating procedure.

Senator SYMINGTON. Have you made a complaint since you left the service?

Mr. OSBORN. Only in the form of my testimony, which has been minimally investigated by the Army.

Senator SYMINGTON. Your testimony before the House?

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. Did you ever give the Department of Defense or anyone with authority to conduct investigations in this matter the names of the individuals who had committed atrocities you said you witnessed?

Mr. OSBORN. No, sir. I am convinced that if I did, they could scapegoat the individuals and avoid answering my questions, because of the policies which caused that death.

Senator SYMINGTON. Say that again.

Mr. OSBORN. I am convinced that the military has taken the case you mentioned this morning through the special agent employed, and with Ambassador Colby's avoidance of the question we are putting to him, that they would use the names of the individuals which I would submit to them who committed these crimes as a matter of policy, they

would scapegoat those individuals and not investigate the policies which caused the incidents. And we were most interested in getting the policies.

Senator SYMINGTON. Have you got the names of the people whom you say committed those atrocities?

Mr. OSBORN. Yes, I have.

Senator SYMINGTON. Would you submit them to the committee?

Mr. OSBORN. Would it reflect seriously upon my credibility if I did not?

Senator SYMINGTON. I am leaving that up to you, Mr. Osborn. You are here objecting to the appointment of another public servant. We are considering the confirmation for his position.

Mr. OSBORN. I am reticent to do that, and I don't want it to reflect upon the accuracy of the things I have said.

Senator SYMINGTON. It is very clear that regardless of whether Mr. Colby has or has not been a good public servant, you are attacking his reputation.

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. His intelligence, his actions, you are attacking him, period. Now, you base a lot of that attack on some people whom you say committed atrocities which he permitted.

Mr. OSBORN. No, sir, that happened before he was there, as I tried to point out.

Senator SYMINGTON. But you brought it into the confirmation. I should think that you should furnish those names to the committee for the record. But I won't press the point.

Senator Nunn.

Senator NUNN. I don't have any questions.

I would just like to observe that it is almost impossible for anybody to complete an investigation, certainly this committee, if we don't have the names. We have got to find out who made policy and who carried it out and trace it back to the command. That is the only way I know that you can do it. So I will certainly say that the lack of names would virtually preclude any kind of making full investigations.

But certainly as far as overall credibility before this committee, I don't think that is the issue. I think the issue is whether or not any investigation can meaningfully take place.

Mr. OSBORN. I am convinced that less of an investigation, Senator Nunn, could take place if I submitted those names, because the Department of Defense so far has been oriented only toward the individual and not the policy. We are talking about policies which extend from my time of observing those atrocities through to the present. I have documents which I would like further to submit to the committee which point out the existence of those policies being carried under not only the program Phoenix under CORDS, under Mr. Colby's direction, but which continue today in the program F-6, and will probably continue under the special assistant to the Ambassador for field operations under General Jackson, under the four councils general in the fall—

Senator SYMINGTON. What are you talking about now? You have lost me.

Mr. OSBORN. I thought you were following what I was saying.

Senator NUNN. I was.

Mr. OSBORN. I am trying to point out that in the time of my observation of those things, which I first observed in 1968, to the present, the policies regarding obtaining interrogation and assassination and murder of those people who are perhaps innocent Vietnamese civilians has extended from 1968 to 1973, the policies of mistreatment, the follow-through of the mentality of the program have not appreciably changed.

Senator NUNN. That is still taking place, and you say it is going to continue to take place?

Mr. OSBORN. I feel, from this directive from the South Vietnamese Government, that the thing ought to be broadened, that is ought not only to apply to Yankee law—the detainment law, the open-ended law that says you can arrest anybody in classes A, B, and C, of guilt by association, and so forth, which includes the members of the family of President Thieu, anyone at all can be detained and held for 2 years plus 2 years. That applies to anybody at all, men, women, and children of any age or category.

Senator NUNN. You are saying that still exists in South Vietnam?

Mr. OSBORN. And I am saying that it will continue to exist until we get two policies, and the specific decrease, and the American policy which continues under not just the Phoenix program, but an undating of that program, and Phoenix has dropped its—

Senator NUNN. You are not saying that we are still involved in that right now, are you?

Mr. OSBORN. Yes, sir, I have tried to say that during my testimony. I have tried to show you—

Senator NUNN. You are saying that is still a policy of the United States, and we still have a Phoenix program going on that is directed by us?

Mr. OSBORN. It has become the F-6 program, it no longer is required by CORDS, that has been disbanded. And I have a document here which traces the history of the Phung-Hoand and Phoenix program that goes from late 19th century all the way through the fall of 1973. It has charts and graphs—

Senator SYMINGTON. You say the late 19th century?

Mr. OSBORN. Yes, sir. It traces how the French did this thing, it traces how the Japanese did it, and how the Americans did it.

Senator NUNN. You are not saying that that had anything to do with Colby's involvement?

Mr. OSBORN. I am saying that he did not do what he said he would. He had sworn under oath that he worked hard to improve that kind of thing, that he would like to see it improve, that he would make efforts to improve it. He did no such thing.

I submit that the burden of proof is on him to show one way in which he really tried to curb this treatment of South Vietnamese civilians.

Senator NUNN. You do not think that we now have charge of the South Vietnamese program, or the South Vietnamese Government?

Mr. OSBORN. I would like to submit that program, F-6, under the Special Assistant to the Ambassador for Field Operations headed by Mr. Jake Jacobson out of the Saigon Embassy and in four Councils General in Hue, DaNang, Bienhoa, and Kontoum will continue the same policies which we have discussed here and which were blatant in 1969 at the top of the war.

Senator NUNN. What are you saying we should do about it right now in the United States?

Mr. OSBORN. I think we ought to call Mr. Colby in and ask him what he did during the time he was in charge of the thing to change that situation. And we ought to bring before the committee the people who can submit documentation and prove that these things don't exist.

Senator NUNN. Do you think we ought to break relations with Saigon until they change?

Mr. OSBORN. I am not recommending any such thing.

Senator NUNN. I am saying we are not in this role there.

Mr. OSBORN. Don't we have an Embassy there?

Senator NUNN. We have in Russia and China too, but we don't control their policy.

Mr. OSBORN. No. But I am saying that our advice and sponsorship is beyond the F-6 program which has the same——

Senator NUNN. You are saying that we are still involved in that F-6 program, which was the Phoenix program?

Mr. OSBORN. Very definitely, and which has the same policy.

Senator NUNN. You are not contending that we had anything to do with the French policy in the 19th century?

Mr. OSBORN. I am not making any such contention. I am saying that since 1968 things have not improved, they have gone downhill. And the treatment of South Vietnamese civilians has gone downhill.

Senator NUNN. So the gist of your testimony is that the atrocities that you saw were not committed while Mr. Colby was there, and they were not directly his policies, but you are saying that based on information that you surmise, that his tenure in office there did not change that, and is continuing today, is that correct; is that a fair summary?

Mr. OSBORN. That is correct, sir.

Senator NUNN. What is your present occupation?

Mr. OSBORN. I am a member of the Committee for Action and Research on the Intelligence Community, which does exactly that.

Senator NUNN. The Committee for Action and Research——

Mr. OSBORN [continuing]. On the Intelligence Community.

Senator NUNN. Where is the home base of that?

Mr. OSBORN. Washington, D.C., sir.

Senator NUNN. And is it an official corporation, nonprofit corporation?

Mr. OSBORN. We have applied for corporate status, yes, sir, and we will be incorporated.

Senator NUNN. How many people involved?

Mr. OSBORN. There are only three of us, exintelligence people who are concerned about Phoenix and other programs.

Senator NUNN. When did you start this organization?

Mr. OSBORN. In February, 1973.

Senator NUNN. So you just started?

Mr. OSBORN. We have not gotten off the ground.

Senator NUNN. And what is your goal and objective?

Mr. OSBORN. Our goals and objectives include the investigation and research into intelligence agencies which are overstepping their bounds by Government authority carrying out such blatant programs and Phoenix.

Senator SYMINGTON. Thank you very much, Mr. Osborn.

If you have any further comments or statements you would like to make, we would be glad to have them for the record.

Senator NUNN. Do you want to submit that document there for the record?

Mr. OSBORN. Yes, sir.

Senator NUNN. What is that document?

Mr. OSBORN. This is the bulletin of the Committee for Action and Research on the Intelligence Community, May 1973. It is entitled "Counterspy."

Senator NUNN. Do you mind telling me what that is on the front?

Mr. OSBORN. If you will open the document up to its centerfold you will see a wanted book which was issued on individuals, South Vietnamese civilian individuals, a wanted poster saying that these people were wanted by the South Vietnamese Government, and should be detained for political questioning.

The figure on the front, you will notice, a blown-up figure of the Phoenix on the top of the wanted poster. It is Phung-Hoang, which is the title under that, which means the same as Phoenix.

Senator NUNN. When did you get out of the service? You were in the Army, I believe?

Mr. OSBORN. Yes, sir, Army Intelligence.

I got off of active duty in October 1969, and was honorably discharged in October 1972.

Senator NUNN. And what has been your occupation since then?

Mr. OSBORN. I have been in graduate school at American University. I have worked with the Vietnam Veterans Against the War, and several other organizations, the Citizens Committee of Inquiry into U.S. War Crimes in Southeast Asia. This documents the work of the committee today.

Senator NUNN. What is your source of living? Do you have an independent source of income?

Mr. OSBORN. Yes, sir. The committee does not provide an income. I work at a restaurant here in Washington, D.C.

Senator NUNN. What is the name of that restaurant?

Mr. OSBORN. Bixby's Warehouse.

I do that in order to provide a living, because when we are dealing with this kind of thing we don't find any sponsorship for research.

Senator NUNN. You don't have a salary in this particular organization?

Mr. OSBORN. No, sir. When we are properly financed we will be salaried.

Senator NUNN. Thank you.

Senator SYMINGTON. You have here a list, I just noticed, a partial list of those responsible for Pacification Phoenix.

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. I notice that among those you have Ambassador Graham Martin.

Mr. OSBORN. Yes, sir.

Senator SYMINGTON. How is he responsible? He has just gotten himself in there.

Mr. OSBORN. Yes, sir; today he took over as Ambassador to South Vietnam, I believe, to replace Ambassador Bunker.

Senator SYMINGTON. Then how can he be responsible for it if he has just taken over?

Mr. OSBORN. I feel that anyone who is the Ambassador of South Vietnam should be totally knowledgeable that the Phoenix program contains the things that I say and the other witnesses who have come before the committee say.

Senator SYMINGTON. He can be knowledgeable, but how can he be responsible, because I visited him last year in Italy, and he was our Ambassador in Italy, and I think last week he became our Ambassador in Saigon. How can he be responsible for the Phoenix program?

Mr. OSBORN. We say here, "Partial list of those responsible for Pacification Phoenix F-6."

We feel that this list of names are people who should be asked about these programs, who have had complicity in the programs—

Senator SYMINGTON. You say it is a list that should be asked about—I notice you have Dwight David Eisenhower and John Fitzgerald Kennedy. President Eisenhower happened, to my certain knowledge to have resisted efforts made by various people, including some in high office today, to go into the situation at the time of the Dien Bien Phu. And he had no position whatever in Vietnam at that time from any military standpoint. How can he be responsible for the Phoenix program?

Mr. OSBORN. Senator, we are pointing out the fact that this is a broad sweeping accusation. This list includes four Presidents under whom Phoenix and Phung-Hoang have been operating in South Vietnam.

Senator SYMINGTON. Are you saying that the Phoenix operation of the U.S. participation was under the administration of President Eisenhower?

Mr. OSBORN. Yes, sir; I am saying that it was certainly—the Phung-Hoang program existed as early as the late 1950's.

Senator SYMINGTON. With U.S. participation?

Mr. OSBORN. And sponsorship.

Senator SYMINGTON. Mr. Osborn, you are under oath, you know that?

Mr. OSBORN. I realize that, sir.

Senator SYMINGTON. Let me repeat the question.

Are you saying that the Phoenix program was participated in by the United States in the years that President Eisenhower was President?

Mr. OSBORN. The Phoenix per se, the official starting date of Phoenix was August 1, 1968. So that would be well after that. No, sir; I am not saying that.

Senator SYMINGTON. That would be after the death of President Eisenhower.

Mr. OSBORN. Yes, sir. What I am saying is that these four Presidents were present while we had pacification and American advisorship and political repression as part of our advisorship to the South Vietnamese Government.

Senator SYMINGTON. I want you to file for the record to justify this charge against President Eisenhower any participation that he had, because I was in this operation in 1954, and tremendous effort was made to get the United States to participate in it prior to the fall of Dien Bien Phu, which was to the best of my recollection the spring of 1954. And President Eisenhower followed the advice of General Ridgeway, against the advice of other people, and refused to intervene in this situation. And therefore I am surprised to see him listed as one who

was partially responsible for this Pacification Phoenix program which you are critical of and which you bring up with respect to the nomination of Mr. Colby to this position.

Mr. OSBORN. Yes, sir. I have no reason to cast aspersions on President Eisenhower, sir. I feel, though, that since our advisorship has been strong in Vietnam, we have encouraged the South Vietnamese and ourselves to participate in atrocity programs which have brought the demise of at least several thousand Vietnamese civilians who by Mr. Colby's admission may well be totally innocent people.

Senator SYMINGTON. Senator Nunn, any questions?

Senator NUNN. Just one other question.

On page 25 you say that the British are getting back into the program now under F-6.

Mr. OSBORN. No, sir, it says here—you mean in the lower right hand corner?

Senator NUNN. In the lower right hand corner you say "British Adviser return to Saigon. CARIC has recently learned"——

Mr. OSBORN. Yes, sir.

Senator NUNN [reading]:

CARIC has recently learned that Sir Robert G. K. Thompson, who served as an adviser to early pacification techniques and programs, dating back to the 1950's, has recently returned to Saigon to assist the GVN during the coming era of the "F-6" program.

So you are saying he, Colby, and President Eisenhower and President Kennedy, all of them?

Mr. OSBORN. Sir Robert G. K. Thompson has returned recently to Saigon as adviser now to our mission there. He is a British citizen. He is in the employ of the United States. And he has always been connected with the Phoenix program such as several of the advisers whom we list on the partial list.

Senator NUNN. He is not related to the British Government in any way, then?

Mr. OSBORN. Not that I know of, sir. I think he is still in the American employ.

If I could, going back to that list which Senator Symington brought up, at the top of that list we start with advisers and designers of the program, we go through the ambassadors during the time that we know the program existed, we go on to COMUS MACV commanders, the CIA station chiefs and the Chiefs of Saigon, and the Presidents during that time.

Sir, I didn't mean to imply that I didn't have a great respect for Dwight David Eisenhower, I didn't mean to cast any aspersions on him. I mean to say that during the American sponsorship and the advisorship in Vietnam these atrocities have been going on and have not been improved on, and that Mr. Colby needs to explain the fact that he swore he would improve on them, and he has not improved on them.

Senator SYMINGTON. Let me say for your information, Mr. Osborn, that I once believed in this war, and many years ago, long before this administration, I turned against it. And the record will so show. But at no time have I ever had anything but respect for President Eisenhower, because he consistently refused to become involved in it. And that is true even though the French told him that they would lose this country unless he did become involved. And that is the reason I chose

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to make that one observation that I read in this pamphlet which I have just seen.

Thank you for your testimony.

If there is anything further you would like to tell us, we would be very glad to have you supply it for the record.

Mr. OSBORN. Thank you.

[Subsequently to the hearing the following statement was submitted by Mr. Colby.]

JULY 10, 1973.

STATEMENT BY WILLIAM E. COLBY

I have been informed that there have been two communications to the Committee from citizens questioning my qualifications for this job.

The first is by Mr. Paul Sakwa, who cites a series of various documents that he says he was associated with while he was in the CIA. I have had a search made for these documents, and frankly I have not been able to find them all. I think, however, I can answer Mr. Sakwa's assertions that I am an uncontrollable agent, that I slanted intelligence, submitted misinformation and permitted U.S. funds to be used in rigging the 1961 election in Saigon while I was Saigon Chief of Station.

While I was in Saigon as Chief of Station, I was quite meticulous in forwarding intelligence which called the shots against the government of Vietnam as well as those which indicated that it was doing a good job.

A number of the references provided by Mr. Sakwa are individual reports reporting various malfeasances, trickery in elections, and so forth, which were forwarded under my personal authority. At the same time I had a positive feeling toward the government of South Vietnam under President Diem, and I really do consider the overthrow of President Diem one of the real disasters that occurred in our history out there.

Mr. Sakwa had the feeling that if we had promoted democratic systems things would have been better. I had a slightly different feeling that the Diem government was about as good a government as you were going to get in Southeast Asia and that the real problem was the Communist effort against it. This was an honest difference of opinion. I give Mr. Sakwa full credit for the sincerity of his views. I ask the same for my own. I did not conceal any information at any time in what was forwarded to Washington. Although I submitted my own views, I will take full responsibility for them. I propose to continue to make a choice between the various possible interpretations and to take responsibility for assuming a position that one situation is more likely than another. I think that is what I am required to do as an intelligence officer.

The second communication which the Committee forwarded to me is a letter from a Committee for Action Research on the Intelligence Community which asks for a chance to present certain considerations against me, largely dealing with the Phoenix program in South Vietnam. They cite two possible witnesses, a Mr. K. Bart Osborn and Mr. David Harrington.

I testified before the House Committee on Government Operations in July 1971 on the Phoenix program and my testimony was followed by Mr. Osborn and Mr. Harrington. The Committee's conclusions after hearing all of the testimony were included in their report. Concern about the Phoenix program was expressed in the report and it was recommended that the Secretary of Defense fully investigate allegations of crimes committed by U.S. military personnel in South Vietnam against civilians suspected of Viet Cong activities. The detailed allegations by Mr. K. Barton Osborn, a subcommittee witness who had served in military intelligence and CIA activities in Vietnam are contained in the hearing record.

The Defense Department investigated those allegations and submitted in a letter to Chairman Moorhead on 2 November 1972 a brief memorandum entitled "U.S. Assistance Programs in Vietnam." The memorandum states in part:

"With respect to the recommendation on page 59 of the Committee report, the Department of Defense completed an extensive and impartial investigation on March 14, 1972, into the allegations made by Mr. Osborn during the hearing held August 2, 1971, by the Foreign Operations and Government Information Subcommittee.

"This investigation, which failed to uncover evidence to support Mr. Osborn's allegations, revealed numerous disparities between statements he made while testifying before the Committee and the factual evidence produced in the course of the investigation.

"It should be made a matter of record that on two occasions during investigative interviews Mr. Osborn refused to identify specific persons, facts or offer precise information involving the alleged incidents which would assist investigative efforts. This reluctance to give specific information was also evident during the hearings of August 2, 1971. Since an investigation has already been conducted and in view of the unsupported and imprecise allegations made by Mr. Osborn, many of which are inaccurate, nor can be proved or disproved, it is the opinion of the Department of Defense that no useful purpose would be served by further inquiry into this matter."

I might add one additional comment which I think brings Mr. Osborn's allegations into better focus. The Phoenix program was essentially instituted during the summer of 1968 and began to work during the fall and on into the succeeding years. Mr. Osborn was a military intelligence officer. He was not assigned to the Phoenix program as a Phoenix adviser. He alleges that he had certain connections. It is a little hard to determine what these are. But Mr. Osborn served in Vietnam from September 1967, to December 1968. In other words, his service essentially was before the Phoenix program really got rolling in any degree.

As I testified in the Committee's open hearing, the Phoenix program was an effort to bring some order into the fight on the Government's side between the Communist apparatus and the government of South Vietnam.

I think that various of the things that Mr. Osborn alleges might have happened. I have no judgment on that, but we did issue instructions, as I indicated in my testimony, that the Phoenix program was not to be a program of assassination and we issued instructions and directives out of the MACV headquarters, which I drafted, that not only were Americans not to participate in any such activities but they were to make their objections known at that time and they were to report the fact that they took place. I did receive some reports of this nature during the Phoenix program and took them up with the government of South Vietnam whom I found to be receptive to the problem. I frankly think that Mr. Osborn's allegations are not well founded.

With respect to Mr. Harrington, he alleges that he was in a briefing with me in the spring of 1969 and says that his account of that meeting is in conflict with my allegation that the Phoenix program was not a systematic program of assassination. I don't recall any such briefing. I received many briefings and he may well have been in a briefing with me.

I believe that I conducted the Phoenix program throughout with a rejection of the idea it be a program of assassination. I knew there were people killed, there is no question about it, and I have testified publicly that most of these were killed in a perfectly natural combat situation in a war, that there were some abuses that did take place, but I certainly reject the idea that it was a systematic program of assassination.

[Whereupon, 4:25 p.m., the committee adjourned, subject to the call of the chair.]

NOMINATION OF WILLIAM E. COLBY TO BE DIRECTOR OF CENTRAL INTELLIGENCE

WEDNESDAY, JULY 25, 1973

**U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.**

The committee met, pursuant to notice, at 2:30 p.m. in room 212, Richard B. Russell Senate Office Building, Hon. Stuart Symington (acting chairman).

Present: Senators Symington (presiding), Hughes, Nunn, Thurmond, Dominick, and Goldwater.

Also present: T. Edward Braswell, Jr., chief counsel and staff director; R. James Woolsey, general counsel; John A. Goldsmith and Edward B. Kenney, professional staff members; Nancy J. Bearg, research assistant; and Katherine Nelson, assistant to Senator Symington.

Senator SYMINGTON. The committee resumes its consideration this afternoon in executive session of the nomination of Mr. William E. Colby to be Director of the Central Intelligence Agency.

Senator Kennedy has requested to ask Mr. Colby some questions. And it was discussed and agreed to this morning in the committee meeting that the committee will waive the 10-minute rule, and will allow Senator Kennedy to proceed a reasonable additional time.

Following his departure, the committee will proceed in the normal way to examine Mr. Colby.

Mr. Colby, will you raise your right hand, please?

Do you swear the testimony you give this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF WILLIAM EGAN COLBY, NOMINEE TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. COLBY. I do.

Senator SYMINGTON. Senator Kennedy, will you proceed.

Senator KENNEDY. First of all, Mr. Chairman and members of the committee, I want to express my very deep sense of appreciation for permitting me to inquire into two areas of my interest, and hopefully they will be of interest to the members of this committee and also to the Senate.

I want to express a very warm sense of appreciation to Mr. Colby, who has been kind enough to visit with me in my office in response to some of the particular areas that I was concerned with. And I want to again express thanks to the members of the committee for permitting me to ask these questions.

I know there is a time problem. There are two principal areas that I would like to develop if I could, Mr. Colby, and then to the extent that the time constraints apply, I would like to ask if we could have some written response to some of these questions. And I understand the committee wants to move ahead. But I hope that we would be able to get some response before at least perhaps this committee considered it, or certainly before the Senate.

I would like to, if I could, at the start, go into the area of the contacts that you had that involved the particular Watergate affair, if we could, and then move to the Phoenix program.

I would like initially if you could just tell us a little bit about your service out in Vietnam in the State Department; is that correct, as a matter of fact?

Mr. COLBY. When I was in Vietnam, I was assigned to the State Department. When I came home from Vietnam on the 1st of July 1971, I stayed on the State Department rolls technically until some time in September or October. But I actually went to work at CIA on September 7, the Tuesday after Labor Day.

Senator SYMINGTON. What year?

Mr. COLBY. 1971.

Senator KENNEDY. Did you have any knowledge of Howard Hunt's visit to the Department of State in September 1971?

Mr. COLBY. To the CIA?

Senator KENNEDY. I was thinking in regard to the State Department.

Mr. COLBY. Hunt's visit to the State Department?

Senator KENNEDY. In 1971. This was involved in the allegation and the charges of the changing or forgery of the various State Department cables. Do you know anything about that whatsoever?

Mr. COLBY. No, I did not.

Senator KENNEDY. Could you tell us how you got the job as the Executive Director to Mr. Helms?

Mr. COLBY. During the spring of 1971, I was on home leave at one point, and Mr. Helms asked me whether I wanted to come back to the Agency after my Vietnam service. He stated that if I came, he would like to have me take the job of Executive Director.

I answered him a few days later and said I would with great pleasure.

Senator KENNEDY. Did you talk to anyone in the White House about this assignment?

Mr. COLBY. I do not believe so.

Senator KENNEDY. Did you talk to Mr. Ehrlichman about it?

Mr. COLBY. No.

Senator KENNEDY. Did you talk to the President about it?

Mr. COLBY. No.

Senator KENNEDY. There are three different documents, or three different occasions which relate to the Watergate affair—and I will direct your attention to these particular dates and expand on the factual situation if you like—in which I understand there has been no record of these various meetings or conversations.

I would like to know if that is because no record was kept, or has been misplaced, or has not been made available. One is the November 16 meeting that you had with Mr. Ehrlichman.

Mr. COLBY. Mr. Helms suggested that I might go down and have lunch with Mr. Ehrlichman and talk a little bit about Vietnam, and my experience there and what I did there.

I did that, I talked about Vietnam.

The second subject that came up was the problem of crime in the United States, and the need of citizens for protection, and so forth. I commended the example of the participation of the Vietnamese in their own protection, noting that, of course, in America you do not think of arming our people to defend themselves in their homes and streets but, rather, as has been done in some communities, organizing the youth to escort the lady from the bus back to her apartment, and things like that.

The third thing that we discussed was the problem of declassification of various documents, classified documents after they become dated. This was in the light of some consideration being given at that time to accelerating the declassification of a lot of documents in the Government, which eventually ended up in the President's Executive order.

On this topic, I made a suggestion which was later incorporated in a letter from Mr. Helms to Mr. Ehrlichman. It was that while we have some very sensitive material in the intelligence area, it seemed to me that it might be possible to generalize an account of what actually happened, and declassify that general account, leaving the original documents and the identification of the agents, and things like that still classified. This would respond to the quite proper requirement that the public be informed about some events in the past, but at the same time protect intelligence sources.

That letter I could provide if the committee wishes it.

Senator KENNEDY. Was there a record of the meeting at that time, was there ever a record kept of your meeting?

Mr. COLBY. I cannot remember whether there was a record or not, or whether it was just written up in a letter. If there is a record, it would be somewhere in my own files, and I would be very happy to provide it. I will certainly look for it. I rather think there was not, and that I just incorporated it into the letter.

Senator SYMINGTON. If you have a record, will you supply it to the committee?

(See p. 168.)

And Senator Kennedy, we will see that you get a copy of it immediately.

Mr. COLBY. I will.

Senator KENNEDY. As I understand, you were charged with the general responsibility by Mr. Helms for the Watergate investigation, were you not?

Mr. COLBY. I was sort of the chief of staff, drawing the staff together to produce the papers and take the actions appropriate at the time, after June 1972, in the Watergate affairs.

Senator KENNEDY. What happened when the FBI agent tried to talk to CIA employees? Can you tell your reactions about that?

Mr. COLBY. I think at that time we received a lot of quite natural questions from the working levels of the FBI, asking about the background of various individuals in the case. A number of these were sent back in written form by our Director of Security to the working levels of the FBI.

Shortly after the event itself—and I cannot think of the exact date—it came to my attention and to Mr. Helms' attention that we had indeed given Mr. Hunt that assistance during 1971. And at that time our feeling was—and Mr. Helms and I shared it—that we were convinced in our investigations that we had nothing to do with the Watergate affair itself, but that it was highly dangerous from a publicity sense to get the idea abroad that CIA was somehow involved in the Watergate affair.

Consequently, we were trying to keep CIA's name out of the publicity, but to respond to the proper authorities who had responsibility for investigating, and so forth.

With that frame of mind, we drew up a report of the various activities involved in this incident in 1971, the Howard Hunt business, and provided those at the top level to Mr. Gray.

Senator KENNEDY. You were aware at that time of the request for cooperation from Mr. Hunt and then Mr. Ehrlichman?

Mr. COLBY. About that time, because about that time we found the transcript, I believe, of a recording that was made of the conversation between Mr. Hunt and General Cushman. In that recording, as I think the record shows, Mr. Hunt said at one point, Mr. Ehrlichman called you, did he not, or some words such as that.

General Cushman replied, yes, he did.

It was on that basis that we believed it was Mr. Ehrlichman that had originated the request. It was not, quite frankly, until about May of this year that we discovered an item in our journal which indicated that that phone call had been made on July 7, 1971.

Senator KENNEDY. But again, as far as the cooperation with the FBI, were the CIA employees made available to the FBI?

Mr. COLBY. We said to Mr. Gray that we would be very happy to supply anything he needed at that level, but we requested that he call off the probes and contact at the lower level. Our concern was a matter of leakage of a misunderstanding of CIA involvement in the Watergate. And it did so happen that several of the documents that we gave to the working level of the FBI did result—I think result is the word—in a phone call to us from a couple of newsmen later on asking us rather direct questions about some of the remarks made in those reports.

So that our feeling was that this subject, which could so easily be misunderstood, should be handled at the top level, and then called off at the bottom level.

I believe that the FBI asked to interview two of our officers. I have forgotten the names right now, but two of them. And Mr. Helms asked Mr. Gray if we could provide the information that they would have. But there was not a refusal, there was a request to handle them in that fashion.

Senator KENNEDY. Now, as I understand it, you were in charge of the investigation, and this was your decision?

Mr. COLBY. I think, to be very specific about it, the decision to have the two officers not respond to the FBI request was Mr. Helms' decision. The basic philosophy of keeping the CIA out of the misunderstanding of being involved and consequently handling the material through the top level of the FBI and the Justice Department was a

decision in which I shared. It was obviously Mr. Helms' decision, because he was in charge.

But I certainly would not say that I disagreed with him.

Senator KENNEDY. Now, at some time Mr. Silbert asked for the detailed questions on November 27, and a detailed reply was prepared by the CIA on December 13, but it was not sent. I understand that Mr. Helms directed you to meet with Cushman to discuss Cushman's involvement with Howard Hunt. And as I understand further—

Mr. COLBY. I think you have your sequence there a little wrong.

Senator KENNEDY. Did you have a conversation with General Cushman that confirmed that Ehrlichman was the man who contacted the CIA about this time, in response to the request of Mr. Silbert?

Mr. COLBY. We prepared a similar package to what had been given to the FBI for the Attorney General and the Department of Justice. This was given to him, it passed through Mr. Peterson and Mr. Silbert. Mr. Silbert then had some further questions, and we prepared the answers to these.

In the discussion with Mr. Silbert I had said that Mr. Ehrlichman had been the originator of the request to General Cushman.

Sometime later Mr. Helms and I went to see Mr. Ehrlichman and Mr. Dean. Mr. Ehrlichman was quite quizzical about how his name could have been used, because he said that he did not remember the phone call.

I told him about the phone call, and that it was General Cushman's memory that we were operating on as to whether the phone call actually took place. And I have said that really the question was one between him and General Cushman. I suggested that he get together with General Cushman and straighten it out.

He asked if I would call General Cushman and ask him if he could get in touch with him. I did. General Cushman called me and asked me to show him what I knew about it.

I went and first told him this story. Then General Cushman said he remembered a phone call, he was not quite sure who had been at the other end of the phone call, he knew it was from the White House, it was either Ehrlichman or Colson or Dean, at which point I showed him the transcript of the conversation between him and Mr. Hunt.

He said yes, I guess that was Mr. Ehrlichman.

He then used my current secretary, who was his secretary at the time, to type up the memorandum to Mr. Ehrlichman.

That was what I talked to General Cushman about.

Senator KENNEDY. I would like to break that apart. Is that the first memorandum—let's go back—

Mr. COLBY. There were two memorandums by General Cushman.

Senator KENNEDY. If you could just respond to the precise question, it would be a good deal clearer for me as establishing a series of events.

As I understand, after the Silbert meeting in the Justice Department—you had a meeting with Mr. Silbert in which Mr. Silbert pressed you, I think were the words you used in your own memorandum, for the name of the White House contact. You had supplied the words "White House contact," or words to that effect, in an earlier memorandum provided to Silbert in describing the contact.

Mr. COLBY. A memorandum provided to the Attorney General which Mr. Silbert saw.

Senator KENNEDY. Which Silbert saw—in which you stated, I think, in a note to Mr. Helms, that you thought this would satisfy the FBI, or words to that effect. I think those words, or words to that effect, are in the materials that have been supplied.

Even at this time you knew, Mr. Colby, that it was Mr. Ehrlichman who was from the White House. So as I understand the sequence, Mr. Silbert asked for the information, and in your response you just indicated that the request had come from an extra-agency official, even though you knew it was Mr. Ehrlichman.

Mr. COLBY. I thought it was Mr. Ehrlichman.

Senator KENNEDY. You thought it was Mr. Ehrlichman.

Now later, sometime later, you had a meeting over in the Justice Department with Mr. Silbert, who continually apprised the CIA in its investigation, as I understand—

Mr. COLBY. I saw Mr. Silbert once, yes.

Senator KENNEDY. As I would interpret the circumstances at the time, in the preparation of its case and anticipating what defense Mr. Hunt may have, Mr. Silbert pressed ahead.

You at some time had a meeting over in the Justice Department. And as I understand from the materials that have been provided, in your own description of this meeting which you had related to Mr. Ehrlichman, you used the words "I danced around to avoid mentioning Mr. Ehrlichman's name to Mr. Silbert."

Are you familiar with that, sir?

Mr. COLBY. Yes, sir.

Senator KENNEDY. Why did you feel that you had to dance around with Mr. Silbert, who was charged with the responsibility to find this information out?

I believe that you used the words you had to dance around. What was your reluctance when you knew that Ehrlichman had made the contact initially with the CIA about providing the material, and was also the person who obviously Silbert was trying to find out about, what reluctance did you feel and why did you feel that, and why did you feel that you had to use those words to Mr. Ehrlichman, whom you later talked to, about dancing around to avoid bringing up the name?

Would you tell us about that?

Mr. COLBY. The reason I went to see Mr. Silbert was that the Justice Department and the Attorney General had said that in the preparation of the case against Howard Hunt and the other Watergate burglars, they were concerned that the defense might raise the issue that somehow CIA was involved, and therefore the prosecution would not be able to go ahead with the case, because CIA would not testify.

Therefore, the prosecution wanted to be informed of the reality of any allegations of CIA involvement. I believe our responsibility was to demonstrate to him at that time the limited nature of the CIA's involvement with Mr. Hunt, and the fact that whatever activity we had with Mr. Hunt was an authorized activity. And it was for that reason that we told Mr. Silbert and the FBI previously what the assistance had been, and that our giving assistance had been duly authorized.

Now, we were concerned at a public misunderstanding of CIA involvement in Watergate, and consequently, there was a reluctance to drop somewhat inflammatory names into the kind of atmosphere that was around us at that time.

For that reason I felt, and I think I was following the general thought of the leaders in CIA at the time, that if we could respond to the legitimate requirements of Mr. Silbert as to the knowledge of CIA activity, and that it was a properly authorized activity, without getting an inflammatory name in it, it would be all right. But if we were asked the direct question, as I was asked within 5 minutes, I, of course, gave it.

Senator KENNEDY. You used the words "I danced around the room several times for 10 minutes, and then was pinned by Silbert with a demand for the name."

Mr. COLBY. He asked me the name directly, and I gave it to him.

Senator KENNEDY. That was your description, your reluctance?

Mr. COLBY. My description, my reluctance, yes. And in the course of it I referred to the fact that we were duly authorized, and he asked me who was actually the authorizing authority in the White House.

Senator KENNEDY. What was the name?

Mr. COLBY. Mr. Ehrlichman.

Senator HUGHES. [presiding]. Senator Kennedy, if it is an appropriate time, we have a vote, and I think we had just as well recess and come back and resume—with your permission, Mr. Colby.

We will recess until we get back.

[Recess.]

Mr. HUGHES. The chairman told me to go ahead, Senator Kennedy. The committee is reconvened.

Senator KENNEDY. As I understand the sequence, Mr. Colby, on November 27 you had the meeting with Silbert in the Justice Department, at which time he pressed you, and you revealed the name of Mr. Ehrlichman. And he asked for a memorandum to update the CIA's involvement as a result of your own investigation.

That memorandum was prepared by, as I understand it, December 13, is that correct?

Mr. COLBY. I think so. Approximately.

Senator KENNEDY. On December 13, you had a conversation with Mr. Cushman to verify that Erlichman really is the extra-agency person that contacted the Agency about Hunt. And you understand from that conversation that you are reaffirmed in your belief that Ehrlichman is the man that may be contacted.

On December 15, you go to the White House; Mr. Helms and you go to the White House. And you have a conversation with Mr. Ehrlichman. Now, who initiated the meeting in the White House?

Did you request that you go to the White House, or did the White House call and ask for it?

Mr. COLBY. It is my belief that Mr. Ehrlichman asked for it.

Senator KENNEDY. When?

Mr. COLBY. I do not know. I got the request to go from Mr. Helms.

Senator KENNEDY. And you do not know when Mr. Ehrlichman called Mr. Helms and requested that they have a meeting?

Mr. COLBY. It is not in my memory right now. And I am not trying to evade it.

Senator KENNEDY. Was it some time after the 27th of November?

Mr. COLBY. I would guess that it was a day or two before we actually went down.

Senator KENNEDY. At any time did you talk to Mr. Ehrlichman during this period of time after the 27th and before December 15?

Mr. COLBY. I actually talked to Mr. Ehrlichman three times in my life; once in Vietnam, and once at the lunch that we talked about earlier, and the third time was this occasion that we are talking about.

Senator KENNEDY. Did you talk to anyone in the White House after the November 27 meeting when you had indicated to Mr. Silbert that Ehrlichman was the person?

Mr. COLBY. No.

Senator KENNEDY. And the time that you went to the White House on December 15?

Mr. COLBY. No.

Senator KENNEDY. You did not talk to anyone?

Mr. COLBY. No.

Senator KENNEDY. Did you ask anybody to call the White House in your behalf?

Mr. COLBY. No.

Senator KENNEDY. But evidently out of the clear blue, Mr. Ehrlichman called, to the best of your knowledge, Mr. Helms and asked to see you and Mr. Helms?

Mr. COLBY. In the context of the meeting—I do not know whether this was in the memorandum, I doubt it, because it was not all that important at the time—the impression I had from the meeting was that Mr. Ehrlichman had heard that his name had been used in my conversation with Mr. Silbert, and I was the source of using his name, and that he asked to be able to talk it out a bit to find out what this was about. And I must say that Mr. Ehrlichman in that meeting appeared genuinely perplexed, because when I pinpointed the date of the Hunt visit at July 22—

Senator KENNEDY. If I could just ask you here—how did Mr. Ehrlichman hear that his name had been mentioned?

Mr. COLBY. I do not know.

Senator KENNEDY. It was not through you?

Mr. COLBY. No.

Senator KENNEDY. To the best of your knowledge, it was not through Mr. Helms?

Mr. COLBY. I do not think so.

Senator KENNEDY. But the call which originated from Mr. Ehrlichman to the Department was at the request of Mr. Ehrlichman? For the December 15 meeting?

Mr. COLBY. The call that originated the meeting with Mr. Ehrlichman that took place in the White House.

Senator KENNEDY. Was Mr. Ehrlichman's call to either Mr. Helms or—

Mr. COLBY. I believe to Mr. Helms.

Senator KENNEDY. And so you went to the meeting?

Mr. COLBY. I went to that meeting. And I described how his name had been used.

Senator KENNEDY. Could you tell us what the conversation was, to the best of your knowledge?

Mr. COLBY. As I recall, he asked what the circumstances were, how his name had come to be used in this account. And I described the way in which we had proceeded to respond to the FBI's questions at the working level, and then when we had gotten into the sensitive relationship with Mr. Hunt, that we had gone to the level of Mr. Gray, and that then the question had come up of the involvement of the prosecutor, so that we had gone to the Attorney General, and had been passed to Mr. Peterson and Mr. Silbert. And in the conversation with Mr. Silbert I had described that I had given his name, after initially trying not to reveal it, but that I had given his name. And he seemed perplexed, because the date that I had fixed on was the 22d of July, so that we thought at that time that he might have called a day or two before, we just didn't know.

He said that he thought that he had been out of town the previous week or so, that he didn't see how it could have been him.

At which point I said that we really had no independent knowledge of this beyond what General Cushman had said, and that really he could perhaps solve that best by talking to General Cushman.

It wasn't until much later that we discovered the journal item in our own records that indicated that the phone call had been made on July 7. And we didn't know that at that time.

Senator KENNEDY. So then what happened?

Mr. COLBY. So at the end of the meeting we left it that as a convenience I would get in touch with General Cushman—

Senator KENNEDY. Why you?

Mr. COLBY. Just somebody had to go do it, I don't know of any particular reason, frankly.

Senator KENNEDY. If it is Ehrlichman who is questioning, why couldn't he have called him; why couldn't Cushman get it straightened out?

Mr. COLBY. I don't know. I didn't see any particular reason for the kind of concern that exists today, and he just asked as a favor, "Would you ask him to call me," and I said, "Sure, I will ask him to call you."

Senator KENNEDY. And so you went and spoke to Cushman?

Mr. COLBY. I phoned Cushman and asked him to call Ehrlichman and tell him the circumstances of that meeting.

Senator KENNEDY. Can you tell us now what the conversation was that you had with Mr. Cushman?

Mr. COLBY. I just said that in that December 15 meeting, I had told Mr. Ehrlichman that our information was that he had originated the phone call, and that he didn't remember it, and that we had said that that would be a matter best worked out between the two of them, and that we had suggested that he and Cushman get together.

Senator KENNEDY. This is 2 days after you had had a conversation with Mr. Cushman when you had reaffirmed that Ehrlichman had actually made the phone call?

Mr. COLBY. Remember, I am still working on General Cushman's recollection, even though we had a record of General Cushman's recollection, it was still General Cushman's recollection. And so therefore the question as to who was on the two ends of that phone was something that could only be solved by General Cushman and Mr. Ehrlichman.

Senator KENNEDY. But he had had some conversation with you on the 13th which had satisfied you that Ehrlichman had been the one that had made the calls, had he not?

You had had the conversation with Cushman on the 15th—

Mr. COLBY. No, I don't think so.

Senator KENNEDY. You had a meeting with Cushman before you went to the White House after the preparation of the memoranda, did you not?

Senator HUGHES. When we get to an appropriate breaking place, we have another vote.

Senator KENNEDY. You had a meeting with General Cushman on December 13 to discuss the White House contacts with Hunt. Silbert had asked the questions on the 27th, and the reply had been prepared of December 13. As I understand, Mr. Helms directed Colby to meet with Cushman to discuss Cushman's involvement with Howard Hunt. And Mr. Colby and Mr. Cushman confirmed Ehrlichman as the White House official who contacted Hunt, he told Cushman that the CIA was trying to keep Cushman out of it, but the FBI was being compelled to respond to Silbert. So as I understood it you had had this conversation on the 13th where at least in conversation you had been satisfied that it was Ehrlichman that made the call. Then you went to the White House—

Mr. COLBY. I essentially told General Cushman that it was our information that it was Ehrlichman.

Senator KENNEDY. From where?

Mr. COLBY. I don't think I showed General Cushman a transcript until later.

Senator KENNEDY. But you had independent knowledge that it was Ehrlichman—

Mr. COLBY. The only knowledge that I had was the transcript.

Senator KENNEDY. But you had independent knowledge that it was Ehrlichman—just the transcript?

Mr. COLBY. That is the transcript, that was the only basis of our knowledge at that time.

Since that time we had the journal item.

Senator KENNEDY. But the transcript led you to believe that it was Ehrlichman?

Mr. COLBY. Yes.

Senator KENNEDY. And then Cushman reaffirmed that it was Ehrlichman.

Of course, Cushman was right ultimately.

Mr. COLBY. Yes.

Senator KENNEDY. So you were satisfied.

Now, you go on to the White House, you have a conversation with Ehrlichman, and he said he is fuzzed up about it. And you go back and tell Cushman to give Ehrlichman a ring and try to work it out?

Mr. COLBY. But Ehrlichman does not seem to recall it, and suggests that he get together with him and refresh his memory.

Senator KENNEDY. Which he did?

Mr. COLBY. Which he did, yes.

Senator KENNEDY. And then in his memorandum, in spite of the fact he had indicated to you earlier that it had been Ehrlichman, he mentioned three names, did he not?

Mr. COLBY. Yes.

Senator KENNEDY. He mentioned Colson's name, and Dean, and Ehrlichman?

Mr. COLBY. Yes.

Senator KENNEDY. And all the time Silbert's request for the information is outstanding, is it not?

Mr. COLBY. Yes.

Senator KENNEDY. But still even when Mr. Helms said, "Ehrlichman has called and wants us over to the White House," did you ever say to him, "Shouldn't we get this memorandum out to Mr. Silbert?"

Mr. COLBY. He knew the situation with respect to the memorandum, and he was kept very closely advised as to that.

Senator KENNEDY. But since you were in charge of it, did you ever feel, shouldn't we—did you tell Mr. Helms afterward that Ehrlichman asked you to talk to Cushman to try—

Mr. COLBY. He was there at the meeting.

Senator KENNEDY. But he didn't hear your conversation with Mr. Cushman.

Mr. COLBY. No, he did not. But I reported it to him when I got back.

Senator KENNEDY. And did Mr. Cushman tell you of his conversation with Mr. Ehrlichman?

Mr. COLBY. He said that he had talked to him and that he had asked him to write a memorandum. So he did.

Senator KENNEDY. And what did he say?

Mr. COLBY. It is a problem—

Senator KENNEDY. Isn't the point of the problem whether Ehrlichman made the call or not? And didn't you change that?

Mr. COLBY. That was a matter between Cushman and Ehrlichman.

Senator KENNEDY. You were in charge of the CIA involvement in the Watergate investigation.

Mr. COLBY. The question at that point was really a matter of whether Ehrlichman or someone else had originated the authorization for CIA's involvement.

Senator KENNEDY. It was pretty important, was it not? Does the CIA usually treat facts of this importance this casually?

Mr. COLBY. But this was General Cushman deciding where he got his authority for taking the action he did, and the matter of whether he got it from Mr. Ehrlichman or someone else had best be worked out by General Cushman, so that he could tell us what his final decision on that was.

Senator KENNEDY. Even if you believed as the person in charge of the overall investigation that of your own knowledge and understanding, and of your previous conversation, that Ehrlichman was the man, you weren't either distressed or upset or concerned, or where you, and how much, so that Cushman would mention two other people?

Mr. COLBY. I was frankly quite startled at Mr. Ehrlichman's obvious perplexity, and I thought that there might be some legitimate confusion here between General Cushman and Mr. Ehrlichman, and that that was a problem that could best be worked out between them, because the clear indication was that Mr. Ehrlichman just did not recall the thing, and it seemed to conflict with where he was that particular week.

Senator KENNEDY. Did you think that particular question was of importance, sufficient importance that Silbert ought to know about it,

or be made aware of it, who was charged with the investigation of it?

I mean, this is not an insignificant fact——

Mr. COLBY. At this point it was not.

Senator KENNEDY. But who set up the whole Hunt operation? And when every American is reading the newspapers, it is not an insignificant and unimportant fact, is it?

Mr. COLBY. That is not an unimportant fact. It was not all that important who made the phone call from the White House to General Cushman about this one little assistance for Mr. Hunt.

Senator HUGHES. The committee will recess until we have the vote and get back.

[Recess.]

Senator SYMINGTON [presiding]. The hearing will come to order.

I have some more questions, but I yield to Senator Kennedy.

Senator KENNEDY. Just to bring us back, Mr. Colby—I'm sorry we are all being interrupted here——

Mr. COLBY. I might be able to clarify one thing, Senator——

Senator KENNEDY. Fine.

Mr. COLBY. I refreshed my memory on that December 13 meeting with General Cushman. I must have been asked to go to see Mr. Ehrlichman prior to that time, and decided to go to see General Cushman to make sure that my facts were accurate before I reported them to Mr. Ehrlichman.

Senator KENNEDY. Do you remember what the circumstances were for your request to go to see Mr. Ehrlichman?

Mr. COLBY. I do not remember that, Mr. Chairman.

I think I was just asked by Mr. Helms to go down and see Mr. Ehrlichman. And I think it came, as I said earlier, from a repetition of the fact that I had mentioned the name to Mr. Silbert.

Senator KENNEDY. You had your memorandum completed on December 13, and then at some time, your memory is not clear when, you were requested to go down and see Mr. Ehrlichman in the White House. And that appointment was set for the 15th.

Mr. COLBY. Prior to that time I went to see General Cushman. When I went to see General Cushman I said that I had used his reference to the phone call to state that Mr. Ehrlichman had called him. I had come to see what his memory was.

He said, well, I know I got a phone call from downtown, and it was either Ehrlichman or Colson or Dean. He said that on the 13th to me.

At that point I showed him the transcript.

He then said, "Yes, I guess it was Ehrlichman."

When I then went to see Mr. Ehrlichman, Mr. Ehrlichman had indicated that he did not recall the phone call. In fact I thought there may have been some confusion because his schedule indicated that he was out of town. I then said, well, I really don't know, the best way is for the two ends of the phone call to work this out together.

He asked me to ask General Cushman to get in touch with him. And I did.

Senator KENNEDY. You did not, as I asked you before, feel that he ought to make the contact himself, Mr. Ehrlichman and Mr. Cushman?

Mr. COLBY. I did not feel that was important.

Senator KENNEDY. You felt that you could ask it.

The conversation took place between Cushman and Ehrlichman?

Mr. COLBY. It must have, yes.

Senator KENNEDY. And the memorandum was prepared which was later supplied to Mr. Ehrlichman?

Mr. COLBY. By General Cushman, yes, a letter to Mr. Ehrlichman.

Senator KENNEDY. The request of Mr. Silbert is still outstanding, is it not?

Mr. COLBY. The request of Mr. Silbert, we took down that request and then went to see Mr. Ehrlichman and Dean on the 15th.

We said that these papers had been prepared for it. We said, we really have to send these. Mr. Dean asked if we could hold them a day or so, so that he could see sort of what was going on.

Senator KENNEDY. Where did Dean come into this?

Mr. COLBY. He was in the meeting, four people in the meeting, being Mr. Ehrlichman, Helms and myself.

Senator KENNEDY. Didn't that surprise you that Dean was in the meeting?

Mr. COLBY. He was counsel to the President.

Senator KENNEDY. And what was Dean's participation in the meeting?

Mr. COLBY. Basically, just to listen.

Senator KENNEDY. In other words, you talked at that meeting to Mr. Haldeman and Mr. Dean?

Mr. COLBY. No, not to Mr. Haldeman.

Senator KENNEDY. I mean to Mr. Ehrlichman and to Mr. Dean on matters other than just the reference of Mr. Ehrlichman being mentioned in the November 27 meeting with Mr. Silbert, you talked about other matters?

Mr. COLBY. We gave him the full story of how his name had come up, and the places in which we had given it to the FBI and to the Attorney General, and to Mr. Silbert.

Senator KENNEDY. And did you bring down your memorandum that had been prepared for Mr. Silbert who was conducting the Watergate investigation and leave that in the White House?

Mr. COLBY. We did not leave it, we showed it to him, and we took it back—

Senator KENNEDY. You showed it to whom?

Mr. COLBY. To Mr. Dean, as I remember. And he read through it.

Senator KENNEDY. At this meeting?

Mr. COLBY. At that meeting, yes.

Senator KENNEDY. Why did he want to see it?

Mr. COLBY. He didn't ask to see it particularly. We had it, and this was the status of our reporting of CIA's involvement in this activity. And we showed him this material that we were going to send to Mr. Silbert.

Senator KENNEDY. This is against a background where Mr. Ehrlichman had tried to get Mr. Helms and General Walters to participate in the coverup?

Were you ever aware of the request that Mr. Ehrlichman had made to the CIA?

Mr. COLBY. I was, yes, General Walters had told me about it.

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Senator KENNEDY. So you were aware that Mr. Ehrlichman had at least attempted to compromise the integrity of the agency, were you not?

Mr. COLBY. We were aware that Mr. Dean particularly had indicated that they did not want the FBI investigation to run across any CIA activity.

Senator SYMINGTON. Will the Senator yield at that point?

Mr. COLBY. What was your position at that time?

Mr. COLBY. Executive Director of the Agency.

Senator SYMINGTON. And the Central Intelligence Agency reports directly to the National Security Council, does it not?

Mr. COLBY. It does.

Senator SYMINGTON. Which is an advisory board to the President?

Mr. COLBY. It is.

Senator SYMINGTON. And the President is the Chairman of the National Security Council?

Mr. COLBY. He is.

Senator SYMINGTON. Therefore, in effect the CIA reports directly to the President, is that correct?

Mr. COLBY. Right.

Senator SYMINGTON. Now, when you went to the White House, did you go there on your own, or were you requested to come?

Mr. COLBY. We were requested to come.

Senator SYMINGTON. By whom?

Mr. COLBY. By Mr. Ehrlichman to Mr. Helms, I believe.

Senator SYMINGTON. And Mr. Ehrlichman's position was what?

Mr. COLBY. I am not sure of the title; it is Assistant to the President.

Senator SYMINGTON. But he was supposed to be very close to the President, was he not?

Mr. COLBY. He was, indeed.

Senator SYMINGTON. For whom your boss, the Director of the CIA, was working, is that correct?

Mr. COLBY. Yes.

Senator SYMINGTON. And at that time, what was Mr. Dean's position?

Mr. COLBY. He was Counsel to the President.

Senator SYMINGTON. Were you in charge of the CIA response to any questions regarding Watergate, or merely carrying out orders and coordinating the various responses?

Mr. COLBY. I was coordinating the various responses under Mr. Helms' direction.

Senator SYMINGTON. Thank you.

Senator KENNEDY. As I understand from your testimony earlier, you indicated that the request from Mr. Ehrlichman to come down to the White House on this date was as a result of the fact that Mr. Ehrlichman's name had been named to Mr. Silbert?

Mr. COLBY. That is my surmise.

Senator KENNEDY. That is your surmise.

So you were not going down there—you did not at least assume that you were going to go down there to talk about National Security Council matters or CIA matters, did you?

Mr. COLBY. It was possible there was CIA involvement in having given some assistance to Mr. Hunt.

Senator KENNEDY. But you had a good idea, Mr. Colby, why you were going down there, did you not, the fact that you had named Mr. Ehrlichman just a few days before, and then he was asking to have a meeting down there, didn't he know why—you didn't really assume you were going down there other than on this matter?

Mr. COLBY. I was going down there to ascertain the precise fact as to how CIA had given help to Mr. Hunt.

Senator KENNEDY. And you had been aware previously, as I understand, of Mr. Ehrlichman's and Mr. Dean's attempt to bring the CIA into the whole Watergate affair, had you not?

Mr. COLBY. I had been aware that the suggestions had been made that the FBI investigation might reveal CIA activities in Mexico, and others in the agency had checked whether this would happen or not. And we were satisfied, and had so informed the people who expressed their concern, that there was no likelihood of any CIA involvement becoming revealed.

Senator KENNEDY. But you were aware of the attempt by the White House, were you not, in their meeting with Walters and Helms to attempt to speak to Mr. Gray and cool off the investigation?

Mr. COLBY. Because of this danger of running into CIA operations, which we then determined could not happen, because there weren't any such CIA operations.

Senator KENNEDY. And were you aware at any time that Mr. Dean had been in touch with the CIA about trying to provide some bail money for the Watergate defendants?

Mr. COLBY. I think General Walters had perhaps mentioned that to me.

Senator KENNEDY. So your understanding in this—

Mr. COLBY. And he also mentioned his immediate rejection of that idea.

Senator KENNEDY. And admirably so?

Mr. COLBY. And I had said, "Fine."

Senator SYMINGTON. We have a vote coming up, but you can continue.

Senator KENNEDY. Maybe we will all go over.

[Recess.]

Senator KENNEDY. Mr. Colby, we had reviewed the fact that you visited the White House—we have to sort of catch up again, because this is a factual situation—that you had had a conversation with Mr. Cushman at some time at the direction of Mr. Helms. And you agreed that it was Mr. Ehrlichman, at least the initial testimony was of such a description.

Then you went down to the White House, and Ehrlichman indicated some concern that he was named at the Silbert meeting. And you went back and talked to Mr. Cushman, and Mr. Cushman had a conversation with Mr. Ehrlichman, and then three names appeared. And you reviewed with us after the last vote.

I believe that actually Colson's and Dean's name had come up with Mr. Cushman. Do you know whether your memorandum of that particular meeting reflects that, because I do not believe that it does?

Mr. COLBY. It may not. But I do recall it, frankly, myself rather closely, because I went through the exercise of asking him before I showed him the transcript.

Senator KENNEDY. But at least, as I understand it, your own memorandum indicates, refers to just the White House, and does not indicate either the three named—

Mr. COLBY. No, it does not.

Senator KENNEDY. Now, you had the meeting at the White House with Mr. Ehrlichman, and you made available to Mr. Dean the materials that were to be submitted to Silbert, is that right?

Mr. COLBY. He casually looked at them, not too carefully.

Senator KENNEDY. Tell us about that.

Mr. COLBY. He just paged through them and looked at them. Then he asked if we could hold up on delivering them for a couple of days. I think—

Senator KENNEDY. Did anybody else comply?

Mr. COLBY. I think, in order to try to resolve the accuracy of this use of Mr. Ehrlichman's name, I think that was the context of it, quite frankly. In any case, within, I believe, 5 days thereafter, I was in touch with Mr. Dean telling him that Mr. Silbert needed his answers, and that I recommended that we send the answers along. And he agreed to let me do so.

Senator KENNEDY. At the meeting, you showed the material to Mr. Dean, and then after the meeting you went out and asked Cushman to call Ehrlichman?

Mr. COLBY. Yes.

Senator KENNEDY. And a memorandum was prepared that indicated those three names, is that correct?

Mr. COLBY. Yes.

Senator KENNEDY. And then Ehrlichman said he was dissatisfied with that memorandum that named three names, is that correct?

Mr. COLBY. That is what General Cushman told me, yes.

Senator KENNEDY. And so then they prepared another memorandum that deleted those names, right?

Mr. COLBY. Right.

Senator KENNEDY. And sent that over to the White House, that was the one that was provided to the White House?

Mr. COLBY. Both were provided to the White House.

Senator KENNEDY. Both were provided to the White House.

Those were the memorandums intended for Mr. Silbert?

Mr. COLBY. No. The papers prepared for Mr. Silbert finally went to Mr. Silbert untouched.

Senator KENNEDY. I understand that.

Mr. COLBY. Untouched and unchanged.

The two memorandums presented by General Cushman, each of them went to the White House. And those were not sent to Mr. Silbert.

Senator KENNEDY. They were not sent to Mr. Silbert?

Mr. COLBY. They were addressed to Mr. Ehrlichman and sent to Ehrlichman; it was a communication between General Cushman and Mr. Ehrlichman. And we had a copy.

Senator KENNEDY. Have you made available the memorandums that you have actually provided to Silbert to the committee?

Mr. COLBY. Yes, sir.

Senator KENNEDY. That has been provided?

Mr. COLBY. It is in the record, yes.

Senator KENNEDY. And does that name Mr. Ehrlichman as the source of the conversation?

Mr. COLBY. The written memorandum does not name him, although Mr. Silbert knew it. I am not sure that the questions Mr. Silbert requested really asked that question.

Senator KENNEDY. He asked you that on November 27, and you responded that it was Ehrlichman, is that right?

Mr. COLBY. Yes.

Senator KENNEDY. And yet that is the memorandum that was actually provided by the CIA?

Mr. COLBY. These were additional questions asked by Mr. Silbert during the course of that meeting, and in a followup meeting with one of our other officers, he asked some additional questions based on the material we gave him at the November 27 meeting.

Senator KENNEDY. Now, after this—

Mr. COLBY. And we prepared the answers for those additional questions, and then sent those answers down to him on the 21st of December.

Senator KENNEDY. After the December 15 meeting, did Silbert get in touch with you?

Mr. COLBY. No, I do not believe I had any further contact with Mr. Silbert.

Senator KENNEDY. You called Dean after this, did you not?

Mr. COLBY. Yes.

Senator KENNEDY. And can you tell us about that conversation?

Mr. COLBY. I said that our legal counsel, who were the channel that was giving the material to Mr. Silbert, said that Mr. Silbert was asking for the material, and I thought that we ought to go ahead and give the material to Mr. Silbert.

And Mr. Dean said all right.

Senator KENNEDY. Did he not say, give a minimal part, or something of that description?

Mr. COLBY. That is my record of what was given. And we sent down the papers that we had prepared.

Senator SYMINGTON. We will recess for a vote.

[Recess.]

Senator SYMINGTON. Senator Kennedy, will you proceed.

I am sorry about these votes, but there is nothing we can do about it.

Senator KENNEDY. Mr. Colby, just so that we understand what the situation is, you went down to the White House and had the conversation with Mr. Ehrlichman, who indicated perplexity by the fact that his name had been raised at a meeting with Silbert. And Mr. Dean attended that. You showed Mr. Dean the memorandum that was going to be made available to Silbert, as I understand it.

Do you remember why you brought the memorandum that was going to be made available to Silbert to the White House?

Mr. COLBY. Not particularly.

Senator KENNEDY. Was there any reason for doing that?

Mr. COLBY. Just to show them the present state of the play, I believe.

Senator KENNEDY. Did they ask—did you initiate the fact that you had the memorandum prepared? Did they want to examine it?

Mr. COLBY. In the course of explaining the conversation with Mr. Silbert, we covered the fact that Mr. Silbert had asked a series of additional questions, and that we had researched the answers to

those questions, and we were providing these answers that I had prepared at that time.

Senator KENNEDY. And did Mr. Ehrlichman examine the document as well?

Mr. COLBY. I cannot be sure. I really do not think so, but I am not sure. I think only that Mr. Dean looked at it and he just paged through it like this.

Senator KENNEDY. You are aware even at this meeting that took place at the White House with Mr. Ehrlichman and Mr. Dean that Mr. Ehrlichman had attempted through direct conversations with Mr. Helms and Mr. Walters to try to get the CIA to effectively dampen the FBI investigation of the Watergate affair vis-a-vis the Mexican involvement, were you not?

Mr. COLBY. As I interpreted it, they had raised the possibility that the FBI investigation would interfere with CIA operations. We had determined that they would not, and had so advised them.

Senator KENNEDY. But it was a little bit more than that, was it not?

You are familiar, I am sure, with the testimony of Mr. Helms and others that, at least as I gather it, they felt that there was a conscious effort on the part of Mr. Ehrlichman to try and get the Agency to put a dampener on the investigation? You must have been aware of those efforts, were you not, by Mr. Ehrlichman?

Mr. COLBY. I was aware of those, yes.

Senator KENNEDY. Friday after the conversations which took place with Mr. Helms in the White House with Ehrlichman, Mr. Dean called Mr. Cushman, as I understand, and he had meetings with him for 3 days in which the request was made that the CIA provide bail money for the Watergate defendants.

Are you familiar with those conversations?

Mr. COLBY. General Walters informed me of his various discussions with Mr. Dean.

Senator KENNEDY. What did you think the purpose of the Dean-Walters conversations were?

Mr. COLBY. I thought that Dean was asking whether we could provide bail for these prisoners.

Senator KENNEDY. Did you think that was proper?

Mr. COLBY. No. And General Walters merely informed me that he had turned it down. And I agreed with him 100 percent.

Senator KENNEDY. What did this mean to you about Mr. Dean? Did this raise any kind of flags with you thereafter, now that you know that Dean had made this unusual and highly irregular request of the Agency?

Mr. COLBY. I certainly was aware that he might make an improper request. And if an improper request was made, it would be turned down.

He was, however, still counsel to the President.

Senator KENNEDY. And how would you characterize your assessment of Mr. Ehrlichman's request of Mr. Helms and Mr. Walters, how do you characterize that? Did you think that was a proper request that was made of Mr. Helms and Mr. Walters to attempt to have the CIA effectively dampening the FBI's investigation with CIA involvement in Mexico?

Mr. COLBY. As I interpreted that at the time, a couple of names had come up which had been suggested as possibly involved with the CIA, and also possibly involved with having passed money to Mr. Hunt and the others involved in that operation. When they had raised the possibility of the investigating elements cutting into CIA's operation, it was a pure question of fact. Were we still involved in operations with these people? And the answer was no.

Senator KENNEDY. Mr. Helms' responses were somewhat more emphatic—

Mr. COLBY. He was in direct relationship with the conversation.

Senator KENNEDY. And his turn-down, as I understand his admonition to Walters, sort of stiffening his back, made him think that it was not just a routine type of request. And I would certainly gather that he felt that there was an effort really to involve the integrity of the Agency.

Now, maybe that is my own assessment of that. But I am interested in what yours would be. Do you think it was proper, the kind of request Ehrlichman was making of Helms and Walters on that Friday in June?

Mr. COLBY. I don't think I had a judgment as to whether it was a knowing wrong request, or a somewhat innocent confused request about the facts.

And when we found the facts, we acted on the basis of the facts, and that was the end of it.

Senator KENNEDY. So at any time did you have a feeling that either Ehrlichman or Dean were involved in the Watergate incident at all?

Mr. COLBY. They were certainly concerned about the way it was being handled.

Senator KENNEDY. And how did you interpret that concern?

Mr. COLBY. As concern about the possible implications and the public understanding of what those actions had been about. And the impact and responsibilities for those actions.

Senator KENNEDY. Is that really your answer on it, that they were concerned about the possible impact and the public reaction to this?

Am I to assume, Mr. Colby, that the top figure in the CIA, with these kinds of facts that are presented to you, that this last answer represents your best judgment, given the kind of facts and the involvement of Ehrlichman, and the attempt really to question the whole integrity of the CIA, when you have got a response like Helms' and Walters', who felt that these questions and Cushman who felt that these requests were improper and irregular, you are here even in the benefit of hindsight to say that you thought that this kind of involvement was only dealing with public policy concerns or issues?

Mr. COLBY. Their requests were, it seemed to me, on the edge of propriety, and the CIA responsibility was to hold itself very specifically to the facts and act within its proper authority, and the CIA did that.

These officers were still in their positions in the White House, and consequently they had to be dealt with as White House officials with certain authority.

Senator KENNEDY. We found that even Mr. Gray, who was head of the FBI, recognized at once Mr. Ehrlichman's name, and when he recognized the involvement of Mr. Dean and Mr. Ehrlichman, he took precautions.

Mr. COLBY. I think the key on this, Senator, is the resolution on our side that we would not do anything improper, and that we would deal with the other authorities of the Government.

Senator KENNEDY. And you felt that when Mr. Ehrlichman made a request of you to go back and talk to Cushman, and ask him to delete his name, you thought that that was—

Mr. COLBY. He did not ask me to delete his name, he asked me to ask General Cushman to phone him.

Senator KENNEDY. And you did, in spite of the fact that your own—

Mr. COLBY. He asked me to phone him to resolve the difference of report as to who was on the other end of the phone.

I merely called General Cushman and said, "There seems to be some misunderstanding between you two. And I suggest you two resolve it."

Senator KENNEDY. But there wasn't any misunderstanding, according to your note, in Mr. Cushman's mind that Mr. Ehrlichman had been the one that had contacted him.

Mr. COLBY. But you will recall that when I first asked General Cushman he used three names, when he replied to me orally. I then showed him the transcript, so that I thought it was possible that there might be some confusion, particularly as I did not know the date of the phone call, when Mr. Ehrlichman had said that during that particular week he had been out of town, and there might have been a misunderstanding, and there might not.

Senator KENNEDY. Your notes do not reflect that three names were mentioned?

Mr. COLBY. No, they do not.

Senator KENNEDY. And your notes reflect also that Mr. Cushman refreshed his memory and recalled the incidents clearly.

Mr. COLBY. He refreshed his memory with the transcript which I showed him after my initial question to him.

Senator KENNEDY. Shall we vote and come back?

Senator SYMINGTON. Yes.

[Recess.]

Senator SYMINGTON. Will you proceed, Senator Kennedy?

Senator KENNEDY. Mr. Colby, this memorandum that was being prepared—there are two memorandums that are being prepared, one in response to the Silbert request, is that correct, and another memorandum that was being prepared to transcribe the occasion of the White requests for Hunt—for cooperation with Mr. Hunt—that is the Cushman-Ehrlichman conversation.

Mr. COLBY. There were literally hundreds of memoranda prepared, Senator. We prepared a set of answers to Mr. Silbert's questions.

General Cushman prepared a note to Mr. Ehrlichman from him which describes the circumstances of the initiation of the help for Mr. Hunt.

Senator KENNEDY. Let me tell you what is troubling me, Mr. Colby. It would appear to me that you were aware that Mr. Ehrlichman had made the contact with Mr. Cushman requesting the cooperation for Mr. Hunt, and that you had had a conversation with him that supported that idea in your own mind. And then you had the conversation with Mr. Ehrlichman. And your notes of that conversation with Mr. Cushman reflect that at least when he refreshed his recollection

he remembered clearly the incident. Now, you go down and you talk to Mr. Ehrlichman, and Mr. Ehrlichman, among other things, shows perplexity, and requests you to have Cushman call back Mr. Ehrlichman about Mr. Ehrlichman's involvement. And now Mr. Cushman does so, and he prepared the memorandum and indicates three different names. And even you are satisfied in your own mind that Ehrlichman was the man.

Now, Mr. Ehrlichman destroys that memorandum, and requests another memorandum coming from Mr. Cushman which does not indicate any names. And Mr. Cushman sends such a memorandum over to Mr. Ehrlichman. Now, what in the world did you think Mr. Ehrlichman wanted that memorandum for?

Didn't you realize that it was to be a defense against any kind of Mr. Ehrlichman's involvement with the CIA?

Mr. COLBY. I heard about these memorandums from General Cushman. He used my secretary, who had been his secretary, and he merely gave me a courtesy copy of the memorandums, the two memorandums that he sent.

It was clear to me that there had been a difference between their memories as to that event.

Senator SYMINGTON. Between whose memories?

Mr. COLBY. Between Mr. Ehrlichman and Mr. Cushman. They had gotten together, and they were resolving the situation between them.

Senator KENNEDY. But your recollection of your conversation with Mr. Cushman—

Mr. COLBY. Was that when first asked he gave three names, and then when shown the transcript, he said Ehrlichman.

Senator KENNEDY. Your memorandum does not reflect that?

Mr. COLBY. That is right.

Senator KENNEDY. Your memorandum reflects that when his memory was refreshed he remembered clearly?

Mr. COLBY. Yes.

Senator KENNEDY. It does not mention the other two names?

Mr. COLBY. No, sir.

Senator KENNEDY. And you understood from your own information that it was Mr. Ehrlichman as well that was the contact?

Mr. COLBY. From the transcript I had, yes.

Senator KENNEDY. The transcript you had.

And now we know that even though you were satisfied in your own mind from the transcript you had, and Mr. Cushman, when his memory was refreshed, you knew it was Mr. Ehrlichman, we find you going over talking with Ehrlichman and Ehrlichman requesting that you get Cushman to call him, because there is a confusion about the names, and now Cushman sends three names over in the memorandum, and Ehrlichman indicates that is not satisfactory, he wants a blank memorandum, and Cushman sends a blank memorandum and a copy to you, and you are aware of it.

Now, maybe it is just the benefit of hindsight, but quite clearly the reason that Mr. Ehrlichman was doing that was to clear himself.

Mr. COLBY. In hindsight, yes.

Senator KENNEDY. In hindsight. But there was no kind of red flag that went up to you at all about what did you think at that time?

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Mr. COLBY. General Cushman told me when he sent the second memorandum, that Mr. Ehrlichman had pointed out that he, General Cushman, could not specify which name, and so he asked that the specific names be left out—the reference made to an authorized—whatever the phrasing was—White House official.

And so he did it. And he sent me a copy of it.

Senator KENNEDY. And what was your reaction to it?

Mr. COLBY. My reaction was that that was the way they had resolved it.

I still thought that Mr. Ehrlichman had clearly made the phone call.

Senator KENNEDY. And here you are as the one that has been selected by Mr. Helms to coordinate all of the CIA information on this particular occasion, and you are aware now of this—you are aware of Mr. Ehrlichman's attempt to stifle the CIA in the FBI investigation.

You are aware of Mr. Dean's request of Mr. Walters, and then you are very much aware of the details of Mr. Ehrlichman's request to eliminate his name in the involvement.

Mr. COLBY. And the other two men.

Senator KENNEDY. Was Mr. Ehrlichman, when you went over there and talked to him, worrying about the possibility of other names or his name?

Mr. COLBY. He was worrying about the fact that I had used his name, the other names had not been mentioned.

Senator KENNEDY. And this did not seem—as the person that Mr. Helms had asked to coordinate this and really be the person in the CIA, you were not distressed or upset or felt that you had better get ahold and keep Mr. Silbert aware of this type of request?

Mr. COLBY. We had told Mr. Silbert that we thought it was Mr. Ehrlichman, and there was no change in that.

Senator KENNEDY. But you had not supplied to Silbert the memorandum yet, had you?

Mr. COLBY. The memorandum did go down——

Senator KENNEDY. But it had not gone down yet after the 15th, as a matter of fact, it did not go down until you cleared it with Dean to send it down?

Mr. COLBY. That is right.

And the memorandum said that General Cushman called the appropriate individual in the White House, and that was the reference used.

Senator KENNEDY. You mean——

Mr. COLBY. And Mr. Silbert knew that that referred to Mr. Ehrlichman.

Senator KENNEDY. That has been made available?

Mr. COLBY. This is the memorandum of Mr. [deleted] knowledge of CIA assistance.

Senator KENNEDY. And this was——

Senator SYMINGTON. Has that been made available to this committee?

Mr. COLBY. Yes.

Senator KENNEDY. But this memorandum was not made available to Silbert until after you had called Dean, isn't that right?

Mr. COLBY. No, it was held between December 15 and 20, and shortly after December 20, it was sent down to Mr. Silbert.

Senator SYMINGTON. Will you yield at this point, Senator?

Senator Thurmond asked General Cushman:

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General Cushman, with regard to the memorandum, when were you requested to write this memorandum and were you able to recall all of the context and what they concerned?

General CUSHMAN. I was asked to write the memorandum as I recall, on about the 12th or 13th of December when Mr. Colby visited me. I was always able to remember the rather brief conversation itself but I had certain people that I had known over the years in the White House and I was not able to recollect whether at the time, it was Ehrlichman or Haldeman who had called me and rather than make a statement when I wasn't sure I simply said it was not a stranger but a friend whose name I could recollect at that time. It was true. Since then I have seen the statement where I announced it was Ehrlichman which settled it for me.

Senator THURMOND. And you are confident it was Mr. Ehrlichman.

General CUSHMAN. Yes, sir.

Senator THURMOND. Who made the request?

Was there any other contact that you remember besides Mr. Ehrlichman?

General CUSHMAN. No, sir, only when I called to say I thought this had gone too far in terms of Mr. Hunt exceeding any kind of reasonable request that I was going to turn that off and, all right, he said I will restrain him, and that ended it and Mr. Hunt never came back.

Senator THURMOND. You were requested to write this memorandum, weren't you?

General CUSHMAN. Yes, sir.

Senator THURMOND. And Mr. Ehrlichman requested you to write it?

General CUSHMAN. It seemed to me I wrote it of my own accord at Mr. Colby's request but I just don't know whether he was relaying Mr. Ehrlichman's request that the prosecutor be able to look at all available memoranda in the case or not.

I think it was destined for the prosecutor whom I have never met. I believe his name is Silbert.

Is that as you remember it?

Mr. COLBY. The letter was addressed to Mr. Ehrlichman, and it is my impression that Mr. Ehrlichman requested that General Cushman write it to him. That is my impression from the talk with General Cushman at about the time that the memorandum was written. General Cushman feels that perhaps I suggested it be written down. It is possible that I mentioned that to him—I don't know—just as advice to General Cushman, why don't you write down what you think.

Senator KENNEDY. But could it have come from Ehrlichman requesting that this be written down?

Mr. COLBY. No. The context was that I should ask General Cushman to call Mr. Ehrlichman. And I did not have any further contact with Mr. Ehrlichman, so I did not have a way to pass any message from Ehrlichman from then on.

Senator SYMINGTON. I see you testified on this, Mr. Colby:

Well, at the time that we first started talking to the Justice Department, we had some impression in the Agency that it was Mr. Ehrlichman who had called and we had used that name with the prosecutor, Mr. Silbert, and with the Attorney General. We didn't really have direct evidence of that and in mid-December Mr. Helms and I were asked to go see Mr. Ehrlichman and Mr. Dean, and I recounted the material that had been forwarded to the Justice Department or summarized it and mentioned that we had told them we thought the name was Ehrlichman that had made the original call.

Mr. Ehrlichman said that he didn't recall that particular phone call, he just didn't recall, and he seemed perplexed about it, and I said that, well we didn't have any really good evidence on it, the only fellow on our side who would know anything about it would be General Cushman, and Mr. Ehrlichman asked me to get in touch with General Cushman so that they could refresh their memories directly, and thereafter I did get in touch with General Cushman, showed him what we had, told him about this, and I don't know who suggested that we actually write a memorandum.

General CUSHMAN. I got that from Mr. Ehrlichman. He called on the phone and said the same thing you just said, that he didn't think he made the call,

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that the 22d, I think it was, of July, Hunt came to call, that he, Ehrlichman, had not been in town to be able to place a call. Well, this upset my recollection even more because, while I was fairly sure he called, he said he was out of town and I had not come across this other evidence to show when it was, and since I announced it on July 8; therefore, it must have been on the 7th. I can now state on or about July 7, 1971 that it was Ehrlichman who called me, but at the time that I was preparing this memoranda I couldn't swear to it even though I was quite sure in my own mind.

And it goes on. It seems that General Cushman was not able to recollect, and then he finally did recollect.

Senator KENNEDY. Of course in that he had no reference to Colson or Dean.

Do you know where those names came from? Here is Mr. Cushman who does not remember those names being mentioned in conversations with you, nor do your notes reflect them.

Mr. COLBY. I remember that when I went to see him, I wanted to make sure that the memory was accurate, and so I did not show him the transcript first but asked him if he remembered who had called him.

Senator SYMINGTON. Had you not already given Ehrlichman's name to the prosecutor when all this happened?

Mr. COLBY. Yes.

Senator NUNN. I am confused on that point. You used "he" three times.

Mr. COLBY. When I went to see General Cushman on December 13 I took along the transcript that we had of General Cushman's talk with Howard Hunt on July 22, 1971. In that transcript it says that Mr. Hunt said, "Didn't Mr. Ehrlichman call you?"

And General Cushman said yes, he did.

When I went to see General Cushman on December 13, 1972, I first asked General Cushman if he remembered who had made the phone call to him sometime before Howard Hunt's visit to him on July 22. And at that point he said, well, I think it was either Ehrlichman or Dean or Colson or somebody like that.

Then I showed him the transcript, which had his statement yes, Mr. Ehrlichman called me. And he said, well, that is right.

Senator KENNEDY. Then after this, in the memorandum that he did for Ehrlichman, I think Cushman just indicated that the request may have come from Ehrlichman, he changes it back again.

Mr. COLBY. In the first memorandum he said one of the three, and in the second memorandum he leaves the three names out.

Senator KENNEDY. So the development of this memorandum at least according to Cushman, may have come at the request of Ehrlichman for a memorandum on this conversation?

Mr. COLBY. It may have.

Senator KENNEDY. Cushman may have, and your memory is not—

Mr. COLBY. I do not remember particularly recommending it, but I might have said, it might be worth writing down.

Senator KENNEDY. Did it ever occur that with the changes from Ehrlichman to these other names, or just the White House, that this might be serving the interest of the possible defense of Ehrlichman at this time, about his involvement?

Mr. COLBY. Obviously it was leaving the three names out as distinct from pinpointing the three names.

Senator KENNEDY. Or his name; you were convinced that it was his name?

Mr. COLBY. I was convinced that it was Mr. Ehrlichman.

Senator KENNEDY. You had a conversation, you called Mr. Dean on the 20th, as I understand it, did you not?

Mr. COLBY. Yes.

Senator KENNEDY. And you indicated to him that Silbert was pressing?

Mr. COLBY. Silbert had asked questions on November 27, and we had prepared them in about a week or 2, and then held them since the 13th when they were prepared. We took them and showed them to Mr. Dean and said that we would be sending them shortly.

He said, would you hold them a couple of days until I do some checking.

In 5 days it seemed to me that we were holding them unduly long with respect to Silbert. So I called Mr. Dean and said that we were being pressed for the answers to these questions which we had promised, and we would like to go ahead and give them.

Senator KENNEDY. What did Dean say?

Mr. COLBY. He said go ahead and release that amount, that minimal bit, as is stated in the transcript of the telephone call.

Senator KENNEDY. Why do you think he said give the minimal bit? What was your reaction?

Mr. COLBY. My interpretation to that minimal bit was in the general context of my approach to handling this problem for Mr. Helms, which was that the CIA was not involved in the Watergate, and it was dangerous to get too many stories at large, so let us answer any questions that are asked very directly and very straightforwardly at the appropriate level, but let us not take the chance of confusing, creating misunderstanding that somehow the Watergate was a CIA operation, as it had been very generally alleged to be.

Senator KENNEDY. And this is even though you are aware of the background of Dean of trying to bring—you must have realized that Dean was not the person who was interested in keeping the CIA out?

Mr. COLBY. That is correct, sure.

Senator KENNEDY. You understood this. And then he is talking about the minimum bit, and you are suggesting here that he was interested, as he turned around and changed, being now interested in protecting the Agency? You are aware of what he tried to do with the Agency before?

Mr. COLBY. No, but he realized that those responses to Mr. Silbert were responses, but that, as was indicated, we did not use Mr. Ehrlichman's name in the response in the paper, but actually had given the name Ehrlichman orally, and only the name Ehrlichman orally.

Senator KENNEDY. Could you review for us just a bit why you felt that you had to use those words when you were meeting with Mr. Ehrlichman about dancing around his name, why did you feel that that characterization was an appropriate characterization of your conduct of the meeting with Silbert in the Justice Department?

Mr. COLBY. Because when I had started in the conversation—

Senator SYMINGTON. Let me get this straight.

Dancing around, who did you say that to?

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Mr. COLBY. I said it in the memorandum I wrote to myself of the meeting with Mr. Ehrlichman and Mr. Dean.

Senator SYMINGTON. You wrote it for yourself?

Mr. COLBY. Yes.

Senator SYMINGTON. It was a memorandum for the record?

Mr. COLBY. I probably used it in talking to Mr. Dean and Mr. Ehrlichman and Helms.

Senator SYMINGTON. And how did it get to be a part of this record?

Mr. COLBY. It was submitted by CIA to the committee.

Senator KENNEDY. May I clarify it?

This description was in a note, a memorandum that was made by Mr. Colby, after the meeting with Mr. Ehrlichman but it referred to the characterization, as I understand it, of his conduct, or his reluctance to supply the name at the meeting with Mr. Silbert earlier. When Mr. Silbert had requested the name, I think that you indicated—

Mr. COLBY. When Mr. Silbert requested the name, he got it. But in explaining the circumstances of Howard Hunt's assistance from CIA, we first started out saying that Howard Hunt had come in and gotten the assistance, that it had been duly authorized.

Then I said, duly authorized by another agency, and duly authorized by the White House, when asked what agency. And who in the White House; Mr. Ehrlichman.

Senator SYMINGTON. I know about this, I remember it.

Was there any effort on your part to cover up anything with respect to the activities of Ehrlichman or any other activities?

You were reporting to the President, and Ehrlichman was with the President, and Silbert was the prosecutor. And this is an internal memorandum.

The more I think about it, the more I do not see anything wrong in your not wanting to volunteer information to the prosecutor so long as you at that time did not know that there had been any dishonesty in the picture. Is that a fair statement?

Mr. COLBY. I think my position had always been one of giving the full story to anyone who needed to know the full story, and in any case always to answer any question truthfully. At the same time I believed, and I think Mr. Helms felt this, that it would be very unfortunate if too much noise were made about the peripheral details of CIA's activities which in any possible way could be connected with the Watergate.

Senator SYMINGTON. I think that was intelligent from the standpoint of the good name of the CIA. But was there any effort on your part to withhold anything that you thought was important in the investigation.

Mr. COLBY. Quite to the contrary, I think we brought out things that were sometimes not even asked for, but which we brought out and showed to the top levels of the FBI or to the prosecutor.

Senator SYMINGTON. Thank you.

Senator KENNEDY. Now, just in terms of your own response to this, and your own description of your conduct, as I understand, when Silbert focused in on the reference to the duly authorized extra-agency request, after Colby had—these are quotes—"danced around the room several times for 10 minutes, and Colby was then pinned by Silbert's demand for the name." And you understand Mr. Silbert was the pros-

ecutor then of the Watergate break-in, and that Mr. Helms had asked you to coordinate at least to the extent possible any knowledge or information, relevant information that had been developed by the CIA.

Now, we are not talking now about making it generally available to the FBI, we are talking about Mr. Silbert making this request.

Mr. COLBY. We had gathered this available information, and had sent a copy of the material we had sent to the FBI to Assistant Attorney General Peterson, who showed it to Mr. Silbert. And Mr. Silbert focused on the phrase used in the 7th of July memorandum, which says, a duly authorized extra-agency source, and asked what that was. And I indicated that that was an agency which had the authority to give direction to CIA, and then that, yes, it was the White House. And then, well, who in the White House? And I gave the name Ehrlichman.

Senator KENNEDY. Can you tell me, Mr. Colby, when your name was placed in nomination for this—did you ever talk to Mr. Ehrlichman about the nomination for the head of the CIA?

Mr. COLBY. No.

Senator KENNEDY. Who did you talk to?

Mr. COLBY. General Haig called me.

Senator KENNEDY. And you never had a conversation with Ehrlichman or Mr. Dean?

Mr. COLBY. With Ehrlichman, the three I mentioned earlier, once in Vietnam—not about my nomination.

Senator KENNEDY. Yes.

Mr. COLBY. Haig called me and said that the President had decided to name Mr. Schlesinger to be Secretary of Defense and wanted me to take over as Director of the CIA.

Senator KENNEDY. That was the only communication that you had from the White House about the nomination?

Mr. COLBY. I went to a Cabinet meeting shortly thereafter when the President announced it and spoke to me at that time. But General Haig phoned me and told me this.

Senator KENNEDY. And at no time during any of the conversations or discussions, either on November 16 or otherwise, was this question of the nomination brought up?

Mr. COLBY. The November 16—

Senator KENNEDY. The November 16 meeting with Ehrlichman, or anyone other than Mr. Haig?

Mr. COLBY. No.

Senator KENNEDY. I wanted to get into some other questions on the Phoenix, but the hour is late.

I will be glad to do whatever the chairman would like. I could probably put these down and get a response from you.

Senator SYMINGTON. What we want to do is either have Mr. Colby confirmed by the Senate, or not, prior to the recess, because this agency is now leaderless in effect.

That being true, what I would suggest, Senator, that any questions you would like to have on any other aspects, including Phoenix, or Watergate, or anything else, if you could get them in writing, we will ask Mr. Colby to reply as soon as possible. It was suggested we vote today, and I said I did not think it was proper until you had interrogated the witness.

Senator KENNEDY. I have absolutely no intention or desire to hold it up. I would like to have these dates in sequence, I think it is extremely important, and it is difficult generally for individuals or Members of the Senate to tie everything together.

Senator SYMINGTON. Supposing we submit the name next week to the Senate?

Mr. BRASWELL. Then it goes on the Executive Calendar.

Senator SYMINGTON. And how long can it be held on the Executive Calendar?

Mr. BRASWELL. It is up to the leadership then as to when it is motioned up.

Senator SYMINGTON. I see.

Senator KENNEDY. So it is really up to the leadership about when to take it up. And what I would like to do is, as early as possible I will get these questions—tonight.

Mr. COLBY. I can sit here and take them from you if you wish.

Senator NUNN. Mr. Chairman, I have got a whole lot of questions, but I have one or two that I think ought to be part of this particular record relating to General Cushman.

Senator SYMINGTON. All right.

Because of my respect for Senator Kennedy and my belief that every Senator has the right to interrogate a witness, I went out and asked Senator Stennis if it would be all right to have him appear in executive session. And he agreed to that. We have waived the 10-minute rule, and with minor exceptions, he has been the only Senator to question the witness except when we were going to vote.

But I have a time problem with respect to the procurement bill. What I think we could do is, tomorrow, based on the fact that it would be up to the leadership, Senator Kennedy can see that Mr. Colby gets these questions on Phoenix, and the answers can be made a part of the record.

Does that suit you, Senator?

Senator KENNEDY. Fine.

Senator SYMINGTON. And then we will vote on General Ryan, the committee will, and as I see it now, we can discuss it in committee tomorrow morning. And we will vote on Mr. Colby. But then it will not be taken up on the floor until say, Monday or Tuesday, we will leave that up to the leadership.

How does that sound to you?

Senator KENNEDY. I don't expect that there will be any desire to hold it up. I would like to get responses and have the record complete on it.

I personally find that whole Phoenix program enormously distressing. And I think there have been a great deal of misrepresentations as well as representations on it. And I think it is important that we have a full record on this. And I would have thought that we would at least be a long ways down the road with the number of questions that I was prepared to get into. I think that ought to be a part of the record, Mr. Chairman. But I want to give you assurance, I have absolutely no intention of requesting the leadership for any time, unreasonable time, or to attempt in any way to delay the nomination.

But I would like to get the information on this. And I would like to get some response. And I think there are a number of my colleagues who would want a full record on that point.

Senator SYMINGTON. May I say, we already have had considerable testimony in the committee on Phoenix. If you have additional questions that you would want to ask, of course, it is very logical and right that you should get the answers to them. And they can be included as part of the record. So what I would suggest to you is that at your earliest convenience you get the questions to Mr. Colby, and then you answer them, if you will, Mr. Colby, as soon as you can.

Mr. COLBY. I will answer them tomorrow.

Senator SYMINGTON. And then we will make the record. And next week we can discuss when to take up the nomination.

Senator KENNEDY. OK.

Senator SYMINGTON. Senator Nunn, do you have some questions you would like to ask now?

Senator NUNN. I just want to ask him two questions this afternoon, and I can discuss with you later some of these others.

To clarify this, I sat through and heard General Walters' testimony from his recollection of all the events concerning conversations with Messrs. Ehrlichman and Haldeman and Dean, and so forth, and I heard Mr. Helms' testimony. And I heard General Cushman's testimony. And now I have heard your testimony. And I think the main point we have been talking about this afternoon has been the Cushman memorandum and the conversations that you had with the Attorney General. It seems to me that at the first point in time that you were asked the question you did respond to the Attorney General and told them to the best of your knowledge your understanding of the relationship between the phone call from Ehrlichman and General Cushman. It is my understanding further that General Cushman later on sent another memorandum that did not give the name, but implied it was a White House source, or words to that effect. And I just want to ask you a couple of questions. Did you encourage Cushman at any time to change his mind on who made the phone call?

Mr. COLBY. I was trying to help him remember accurately who made the phone call by showing him the transcript. And I tried to indicate to him what the thrust of the matter was so that I could help him to testify to that.

Senator NUNN. You actually showed him a memorandum which refreshed his recollection to the effect that it was Ehrlichman that made the phone call?

Mr. COLBY. I did, Senator.

Senator NUNN. So in effect you showed him and refreshed his recollection at a point in time when it had become hazy according to him?

Mr. COLBY. I believe so, yes—it was hazy when I went in first, his memory was hazy when I walked in.

Senator NUNN. So you never in any way prevented him from getting this information to the Attorney General?

Mr. COLBY. No; I did not.

Senator NUNN. And you never in any way encouraged him to have a hazy memory or forget about the event?

Mr. COLBY. Quite the contrary.

Senator NUNN. But on the other hand, you did encourage him to recollect by showing him that memorandum?

Mr. COLBY. I did, Senator.

Senator NUNN. Mr. Chairman, I won't ask any more questions today. And I can talk with the chairman afterwards about the matter.

Senator SYMINGTON. You can ask any questions you want now.

Senator NUNN. If I start on the questions I have it would take considerable time, and I would like to talk to the chairman about it beforehand.

Senator SYMINGTON. All right.

Senator NUNN. I might work out something where I submit them for the record.

Senator SYMINGTON. We can work out right now any questions that you would like answered.

Senator NUNN. Is this going to be the last opportunity we have with Mr. Colby before we vote?

Senator SYMINGTON. I would think so. The members of the committee were anxious to vote today.

You see, we have had Mr. Colby's name before us for quite a while.

Senator NUNN. Well, I have no further questions at this time. I just wanted to ask those particular questions relating to the sequence that Senator Kennedy has been pursuing.

Senator SYMINGTON. I think we have gone now to a point where we will submit a lot of questions for the record.

Mr. COLBY. Mr. Chairman, I also will reply to the questions submitted by Senator Proxmire, I believe.

If I may beg the chairman's indulgence, one or two of the witnesses against me the other day suggested that I be asked to show what I had done in terms of documentation to improve the Phoenix program. I have a package here which has a number of Vietnamese Government documents.

Senator SYMINGTON. You can submit anything you wish based on the testimony.

Mr. COLBY. It was documentation that I had some influence in producing.

Senator SYMINGTON. Senator Nunn, will you submit any questions you have to submit for the record, and Senator Kennedy, will you submit any questions you have to submit for the record, and let's try to get the record together as soon as we can, and let's have the nomination before the committee for approval.

Senator KENNEDY. May I ask for the record for some documents? One was the November 27 meeting with Silbert. As I understand it, there hasn't been any notice provided to that meeting.

Mr. COLBY. I believe there has; yes. I think that has been submitted. There was a memo produced by Mr. Warner which was in this record.

Senator KENNEDY. If you could—

Mr. COLBY. That has been submitted in volume III, that memorandum.

Senator KENNEDY. The meeting with Ehrlichman on November 16, I asked you that before.

Mr. COLBY. I will produce whatever I can on that.

Senator KENNEDY. And do you have a record of your conversation with Cushman at Ehrlichman's request after the meeting at the White House? Do you have that?

Mr. COLBY. I believe there is a record of that; yes. That is the one you referred to.

Senator KENNEDY. Could we get those?

I will give you the citations on those three, Mr. Woolsey. Could those three be made available?

Senator SYMINGTON. Can we do that informally now? Whatever you want done you can do.

Mr. Colby, there seems some confusion between the Phoenix program and the overall CORDS organization.

For example, Congressman Drinan described you as "in charge of the Phoenix program or CORDS." Will you distinguish between the two and describe your role in each of them?

I ask unanimous consent that the question and answer be put after the question and answer of Senator Kennedy.

Will you distinguish between the two and describe your role in each of them?

Mr. COLBY. The underlying program was the pacification program of the Government of Vietnam, Mr. Chairman. The advisory responsibility for that pacification program on the American side was in the CORDS organization. CORDS provided assistance to a variety of subprograms of the pacification program to include local security, the self-defense force, local elections, local development, the Chieu Hoi program, the refugee program, and a variety of others.

Phoenix was one of those subprograms, and by no means the most important. The most important was, to my mind, the territorial security and people's self-defense, although Phoenix was about equal to that in terms of importance.

Senator SYMINGTON. Now, we had the testimony from Congressman Drinan that the pacification program under your direction was "making a mockery of the Constitution of South Vietnam." Would you comment on that?

Mr. COLBY. I think that is an erroneous statement, Mr. Chairman.

The pacification program under my direction advised the Government of Vietnam to reactivate the village governmental structure, for example, which is called for in one of the articles of the Vietnamese Constitution.

We also, in our advisory work, stressed the application of article VII of the Constitution to the extent possible in the confused and dangerous period in which the Government then was existing. So that I think we were endeavoring to carry out the Constitution.

Senator SYMINGTON. Mr. Colby. The record shows that more than 20,000 South Vietnamese were killed in Phoenix during your tenure. And a couple of our witnesses have deplored that large figure. Could you let us know the nature of these people who were killed, and why were they killed?

Mr. COLBY. The 20,000 figure was one which I reported in 1971, Mr. Chairman. The figure is a part of the total members of the enemy apparatus who were taken out of service by either rallying to the Government, by being captured, or being killed in the course of the fight.

The vast majority of the people killed were killed in military combat actions by military forces.

A small portion of the total were killed by police and similar security forces in the course of resisting arrest and fighting.

There were also some abuses in which people were wrongfully killed, but I think this was a very small number.

Senator SYMINGTON. Thank you.

The suggestion has been made to us that you as head of CORDS were "unable to, unwilling to, guarantee to South Vietnamese citizens the basic provisions of due process."

What are your comments with respect to that statement?

Mr. COLBY. On that statement, Mr. Chairman, I think I was endeavoring to support the Vietnamese citizens and government in the preservation of the constitution and its application against a threat and action against it by enemy military, guerrilla and terrorist forces.

We endeavored to follow the constitution, and in fact the various programs applied were efforts to apply the constitution in the middle of that fight.

Senator SYMINGTON. Will you discuss your meeting with the study team of which Congressman Drinan was a member? He has said that you were evasive, that you withheld information and sought to "brush off" the group.

Mr. COLBY. Mr. Chairman, that study team visited my house in Saigon at my invitation. I gave them a briefing. We discussed for about 3 hours or so one afternoon the situation in Vietnam. And I believed I was amply responsive to their questions.

In the final report of that study team, Mr. Chairman, page 12, it says that "Ambassador Colby said that the number of prisoners had gone up and will continue to go up as the pacification program develops."

Upon his return from South Vietnam, Congressman Drinan wrote an article, in the Washington Post of June 21, 1969, which includes the following phrase:

The American Embassy official most familiar with the problem of political prisoners admitted that the number of this type of prisoner is increasing steadily. This officer was indiscreet or honest enough to admit that the increase in political prisoners will continue as the U.S. pacification program gets further out into the country.

I believe at that time, Mr. Chairman, Congressman Drinan thought I was either indiscreet or honest, rather than evasive.

Senator SYMINGTON. Thank you.

One of our witnesses, a Mr. Osborn, testified that under your direction, "inhuman practices have not only continued but increased" in Phoenix and CORDS.

What is your answer to that?

Mr. COLBY. As I indicated in the record, Mr. Chairman, the Defense Department investigated the specific allegations of Mr. Osborn, and were unable to find any specific in them. [See p. 116.]

As to the general statement you quoted that Mr. Osborn made, it is my belief that the Phoenix program contributed to a decline in inhuman or improper activities in Vietnam in the course of the fight against the Vietcong.

Senator SYMINGTON. I would like to ask one more question.

We have just been notified that 81 American servicemen, mainly Green Berets, have been killed on intelligence missions in Laos and Cambodia since 1965, and charged up as casualties inside South Vietnam. Do you know about this?

Mr. COLBY. Just what I read in the papers. I do know that the U.S. Special Forces were running cross border operations in Laos and Cambodia at various times in the past few years. But these were not CIA operations, and CIA was not a part of those. [Deleted.]

Senator SYMINGTON. One other question. The day before yesterday, Tammy Arbuckle had a story about representatives fanning out, you might say, of Phnom Penh into various parts of Cambodia. I asked whether or not they were Central Intelligence agents, and was told that they were.

Who gave instructions for these people to fan out around Cambodia, inasmuch as we are supposed to be out of that country at this time?

Mr. COLBY. Mr. Chairman, we were concerned about the poor quality of our intelligence coverage in Cambodia, and the fact that it was largely focused in Phnom Penh itself.

As a result, the Washington Special Action Group of the National Security Council directed some weeks ago that officers be sent out into the country.

Senator SYMINGTON. What is the Special Action Group?

Mr. COLBY. This is a part of the National Security Council structure.

Senator SYMINGTON. And who chairs that?

Mr. COLBY. Dr. Kissinger chairs that particular group.

Senator SYMINGTON. Were these people fanned out on his instructions?

Mr. COLBY. His authority, yes.

Senator SYMINGTON. Did he approve it?

Mr. COLBY. Yes.

Senator SYMINGTON. Who took it up with him?

Mr. COLBY. I believe there were several agencies that mentioned the need for better intelligence in that area.

Senator SYMINGTON. Is that the Committee of Forty?

Mr. COLBY. No. This was not the Committee of Forty. That was another unit. This was a pure intelligence matter.

Senator SYMINGTON. And who chairs the Committee of Forty?

Mr. COLBY. Dr. Kissinger. He is the Special Assistant to the President for National Security.

Senator SYMINGTON. He needs quite a lot of furniture, doesn't he?

Mr. COLBY. There are a number of committees, Mr. Chairman, that really represent the same people under different names.

Senator SYMINGTON. Specifically, did you recommend to Dr. Kissinger, or did he recommend it to you, or who recommended it to whom, to the best of your knowledge?

Mr. COLBY. I did not do the action myself that I remember, but I believe the Agency expressed concern at the lack of coverage. And we looked at the ways in which it might be done, and the best way seemed to be the use of personnel to conduct intelligence operations to improve the intelligence coverage in the countryside.

Senator SYMINGTON. Especially after the tragedy of the Laos situation, many of us feel that we should have gotten out of Cambodia a

long time ago. My advice would be to get those people back, if you are confirmed and run the Agency.

The man who runs the Agency now is General Walters.

Mr. COLBY. General Walters is the Acting Director.

Senator SYMINGTON. And does he direct the Agency?

Mr. COLBY. He does. He is responsible for it. And I defer to him. We obviously work together on many things.

Senator SYMINGTON. And he was the interpreter for President Nixon?

Mr. COLBY. He has interpreted for a number of Presidents.

Senator SYMINGTON. Will you tell him that my advice is to get those agents out of those various outposts in Cambodia.

Mr. COLBY. I would be glad to pass that message to him, Mr. Chairman.

Senator SYMINGTON. I wish you would.

Mr. COLBY. I would say that those are only intelligence operations.

Senator SYMINGTON. That is what they said in the beginning in Laos when I was there, that is what they told me in the beginning, that they were intelligence people. And the pattern is quite comparable, if I may say so, I do not say it is similar, I say it is quite comparable. And I do not want to get into any dogfight about it. My advice would be to cut it out.

Mr. COLBY. I think our record over the past several years, Mr. Chairman, has been to conduct only intelligence operations in Cambodia. Mr. Helms was quite firm on that.

Senator SYMINGTON. It is very clear that they have three different groups opposing the Lon Nol government. Who protects these men when they are out there purely on intelligence?

Mr. COLBY. They are protected by the local Cambodian forces.

Senator SYMINGTON. But the local Cambodian forces cannot be in control in all places.

Mr. COLBY. They are in control where these people are. These people are in different provincial cities.

Senator SYMINGTON. If they lost control, these people would be killed, would they not?

Mr. COLBY. Possibly, or taken prisoner.

Senator SYMINGTON. Do you think it is worth the risk—is it Americans we are talking about?

Mr. COLBY. It is Americans.

Senator SYMINGTON. Are they volunteers?

Mr. COLBY. They are volunteers. If they had any hesitation, they would be relieved. We did not put out a call for volunteers.

Senator SYMINGTON. Are there any U.S. airplanes like Air America in there?

Mr. COLBY. Air America is working on contract and support providing them the travel back and forth to Phnom Penh, and so forth, and carrying supplies to them.

Senator SYMINGTON. You are not in charge of the Agency, but my advice would be to cut this out, because the large majority of Congress was deceived by Laos, and that type of activity hurt the Central Intelligence Agency. Gathering intelligence in a country which we are

bombing but with which we are not at war, is a lot different from gathering intelligence in Italy or Moscow or Germany.

I think it is one of the reasons that the good name of the CIA has now been somewhat sullied.

Mr. COLBY. I think the CIA is designed to acquire intelligence needed by our President and the National Security Council. And some of those are in dangerous places.

Senator SYMINGTON. But you do not need intelligence in Cambodia, Mr. Colby. In Cambodia, it is clear what is going on, in my opinion. I was in Phnom Penh last year, and I had two staff investigators there 2 months ago, and I do not accept the fact that we need any intelligence to tell us that we are upholding a government that will fall as soon as we get out. That is my opinion; I may be wrong, but I have investigated it.

Mr. COLBY. There are a number of open questions on Cambodia.

Senator SYMINGTON. There may be, but in my opinion they are not important enough to risk American lives. And I would hope that you would get out of Cambodia except in the Embassy, and very possibly you will be assisted out of the Embassy soon. We now get reports that Americans died in Laos and that we had been lied to, because we were told they died in Vietnam. We are getting pretty sick of being lied to.

Mr. COLBY. You are not going to be lied to by me.

Senator SYMINGTON. I am not saying we will. But you at this time are not directing this Agency. And I think some of the things that we have been told were just directly contrary to truth, and that is not necessary in order to run this country.

I learned most of my information about Laos from the newspapers, and I only learned about this from a newspaperman in Cambodia.

Mr. COLBY. We have had [deleted] of our people killed in Laos over the years, Mr. Chairman—excuse me [deleted] and [deleted] in Vietnam.

Senator SYMINGTON. And I did not know about this fanning out of CIA people in Cambodia until I read it in the paper yesterday morning, or the day before yesterday. And if we do it, then it ought to be known, that is what I am getting at.

What is the difference between the [deleted]?

Mr. COLBY. The National Security Council structure calls for the Washington Action Group to be a group to handle crisis situations, problems, real substantial problem areas with a time factor.

Senator SYMINGTON. Will you give the number of U.S. personnel involved, air personnel, and on the ground?

Mr. COLBY. There are [deleted] American CIA personnel in Cambodia. Of those [deleted] are communications personnel, and the others are normal CIA personnel. But in [deleted] there are about [deleted] personnel, as I understand it.

Senator SYMINGTON. Will you check these figures for the record?

Mr. COLBY. Right.

Senator SYMINGTON. Have you any plans for expansion?

Mr. COLBY. No, quite the contrary; there are no plans for expansion, Mr. Chairman, and there are no plans for consideration of paramilitary activity.

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Senator SYMINGTON. I just want to say for the record that the CIA is an intelligence agency. I was in on the creation of it. It was not an agency to conduct a war; it was an agency to gather intelligence. But my suspicions were aroused by your fanning out in this country with Air America support based on what happened in Laos. I believe you need an agency of this character based on the way the world is today. But, on the other hand, when you continue to get information about its activities through the newspaper—and I think you know the problems we had with our staff people over at the Department of State a very short time ago about getting information which, to give full credit, Secretary Rogers corrected—we just do not like it. There is no reason for us to be in Cambodia, but I am glad to hear that we are there under the order and with the approval of the White House. Is that correct?

Mr. COLBY. That is right.

Senator SYMINGTON. Thank you.

PREPARED QUESTIONS FROM SENATOR SYMINGTON

Before we adjourn, anything you want to ask, Senator Kennedy, or Senator Nunn, we will submit them for the record.

And, Mr. Colby, will you see that you reply as early as possible?

Mr. COLBY. I will.

[Questions submitted by Senator Symington. Answers supplied by Mr. Colby.]

Question. Do you recall an I Corps pacification briefing held for you in Danang in late February or early March of 1969 at which the regional CIA director, Mr. Harry Mustakos, sought to justify the Phoenix program in I Corps? (Harrington testimony).

Answer. No, I presume it was similar to a large number of such meetings, conferences, and briefings I attended during my three and a half years in Vietnam.

Question. What impressions did you take away from that briefing, and what, if anything, did you do as a result?

Answer. While I cannot recall that specific meeting from the many others I attended, by general impression was that the pacification program had a large number of very complicated problems but that our advisers were working hard on them, and that the GVN command levels were committed to as effective an implementation of the pacification program as possible. With specific reference to Mr. Harrington, Mr. Mustakos informed me that he recalled receiving a note from me at some time (whether from that meeting or another meeting neither of us can now recall) stressing the need to emphasize capture rather than kill of VCI in advice to the GVN local representatives. While I do not recall this note, it is consistent with the directions I gave rather generally throughout the CORDS structure on a continual basis.

Question. Speaking more generally, Mr. Colby, just what did you do—what reforms did you initiate—to improve Phoenix and provide appropriate safeguards for Phoenix suspects during tenure as Deputy for CORDS?

Answer. As indicated in previous congressional testimony and previous sessions before this Committee, during the time I was responsible for CORDS and—hence—Phoenix, as one of CORDS' many programs, I worked continually to improve the program in all its aspects, including the development of needed safeguards. One of my efforts involved stimulating and encouraging both MACV and the GVN to issue proper instructions and directives.

The following documents are submitted for the Committee's information as they all result, at least in substantial part, from the CORDS' advisory effort.

(a) The Prime Minister's Directive of December 20, 1967, on the Neutralization of VCI.

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- (b) Presidential Decree of 1 July 1968 establishing the Phung Hoang program.
- (c) Phung Hoang Standard Operating Procedures:
 - (1) 23 July 1968
 - (2) 1 November 1968
 - (3) 1 February 1970
- (d) MACV Directive 10-20 of 23 May 1969 outlining the program of American assistance and advice to the GVN Phung Hoang program.
- (e) Instructions to U.S. personnel concerning Phung Hoang activities first issued through CORDS channels in 1969 and incorporated as MACV Directive 525-36 on 18 May 1970.
- (f) Phung Hoang Current Breakout of VCI Executive and Significant Cadres defining specifically the A and B categories of VCI by job.
- (g) Minister of Interior circular dated 21 March 1969 establishing A, B, C categories of VCI and providing graduated detention terms depending upon category.
- (h) Minister of Interior circular dated 20 August 1969 establishing standard dossier requirements for the identification of VCI.
- (i) Official cable from Central Phoenix Committee to Provincial Committees dated 15 September 1969 calling for village and hamlet officials to be informed on Phoenix operations in their neighborhood.
- (j) Prime Minister circular dated 13 April 1970 requiring that village chiefs be informed of Phoenix operations and arrests in their neighborhood.
- (k) Prime Minister circular dated 24 April 1970 setting up standard time limitations for the interrogation and investigation of cases of arrested Vietcong suspects, to reduce the numbers held in jail indefinitely without appropriate legal action.
- (l) Prime Minister circular dated 5 June 1970 establishing village Screening Committees for the release of arrestees where feasible.
- (m) Prime Minister memorandum to Minister of Justice dated 13 May 1970 calling for the involvement of legally trained Public Prosecutors in the work of the Provincial Security Committee.
- (n) Chart of provinces which had public prosecutors and to which new public prosecutors were being sent in 1971 pursuant to CORDS' advice and assistance.
- (o) Example of Phoenix wanted poster. Many thousands of similar posters were produced for circulation as wanted lists of VCI at large. The final paragraph of the poster invites individuals cited on them to rally to the government and thereby be relieved of any punishment for their crimes. These posters were part of our effort, in October 1969, to make the Phoenix program public, and thus insure that it not acquire any of the characteristics of a "secret police" operation.
- (p) Letter dated 12 October 1970 to the Prime Minister recommending a revision of the An Tri or Emergency Detention Law to incorporate the protections contained in article 7 of the constitution.
- (q) The Prime Minister's circular dated 2 August 1971 which adopted a number of the recommendations made, including the revision of the Provincial Security Committee from largely police and security representation to a three-man body consisting of the Province Chief, the Public Prosecutor, and the elected Chairman of the Province Council.
- (r) Letter dated 13 November 1970 to the Prime Minister recommending the establishment of a conditional release system for suspects or individuals who have indicated that they will no longer engage in activities in support of the VCI. This was also included in the August 2, 1971, circular cited above.
- (s) Extract from the GVN 1972-1975 Four Year Community Defense and Local Development Plan. Tab 6 provides a handbook of decrees, circulars or directives for the handling of Communist offenders and suspects. This plan recapitulates a number of the items mentioned above and follows the series of improvements applied to the Pacification programs of 1969, 1970, and 1971 in this field.

NOTE: These are translations of official South Vietnamese government documents which in most cases are still considered classified by the GVN.

Question. Is US support for Phoenix—money or advisors—continuing, despite the US withdrawal, as the F-6 program, or under any other name or cover?

Answer. US support for Phoenix in funds and advisors ceased in December 1972, although CIA maintains a continuing liaison with the Special Police Branch of the Vietnamese National Police to collect intelligence on Communist activi-

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ties in Vietnam. The F-6 campaign was an emergency program in Military Region 4 instituted by the Vietnamese Region Commander in the fall of 1971 because he feared a major Vietnamese communist attack, which in fact came during the spring of 1972. It is our understanding that the F-6 program was terminated in January 1973. There is no US program of direct support to the GVN follow-on action against Communist terrorism and subversion although the GVN elements involved of course benefit in a general sense from overall US economic and military aid.

Question. Speaking generally, do you believe CIA intelligence and research on the Indochina war has been—and I am quoting—"sloppy and often dishonest"?

Answer. No.

Question. Mr. Colby, did you have any role in June, 1971, in killing a 40-page appraisal of the Khmer communist order of battle prepared by Mr. Sam Adams?

Answer. No. In fact, Mr. Adams' appraisal was given due consideration by our analysts and indeed parts of it were accepted while other parts were not.

Question. Did you order, or have any role in, certain reprisals against Mr. Adams, after he had challenged the accepted CIA estimate for the Khmer communist order of battle, specifically a threat of firing Adams and a seven-day workweek for him?

Answer. I recommended that Mr. Adams not be fired and that he be directed to complete his assigned tasks.

Question. In December, 1972, after Mr. Adams had complained about this Cambodia estimate to the CIA Inspector General, did you comment on his complaint by saying, "Let the chips fall where they may," and if so, what did you mean?

Answer. Yes, I meant that if an CIA employee raises a complaint to the Inspector General that his complaint should be objectively and thoroughly investigated and reviewed.

Question. Going back now, Mr. Colby, to an earlier period in Vietnam, a CIA employee of that period, Mr. Paul Sakwa, has stated that you "slanted intelligence" and that you "submitted misinformation" as CIA station chief in 1960-61. What is your comment on that?

Answer. Mr. Sakwa cited reports sent in by me as evidence to his case. These reports include reports critical of President Diem's political manipulations at that time and my overall assessment that his government nonetheless had a substantial degree of real support and was the best alternative available at that particular time. I believe that the function of an intelligence officer is to submit the facts without suppression and at the same time to submit in a clearly identified fashion his assessment of what these facts and other indicators on the scene add up to.

Question. To support this charge Mr. Sakwa has suggested that we review certain of your intelligence reports in that period. Apparently he believes that your reports were overly optimistic about President Diem's political strength in the April, 1961 election and so about the strength of the South Vietnamese military in the summer of that year. Have you reviewed this material, and how do you respond to these charges?

Answer. Mr. Sakwa and I obviously disagreed on the question of President Diem's political strength and potential, and on the strength of the South Vietnamese military. I believe my assessments to be accurate and still do.

Question. Do you feel that you were, in Mr. Sakwa's words, "an uncontrollable agent"?

Answer. No.

Question. Given the national policies then established back here in Washington, could you have prevented the use of U.S. funds for improper activities designed to swell Mr. Diem's victory margin—the so-called "rigging" of the election?

Answer. U.S. policy at that time was one of support to President Diem. The limitations on our ability to control the GVN apparatus certainly limited our ability to prevent them from conducting improper activities.

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Question. Mr. Colby, your previous testimony about domestic activities of CIA has provoked some critical comment in the press. Would you give the Committee examples—hypothetical examples if you like—of the kind of CIA inquiries and interviews which you would view as proper within the United States?

Answer. Provided that CIA's activities within the U.S. are in the prosecution of foreign intelligence and do not contravene U.S. law, I believe they do not conflict with the statutory restriction against CIA involvement in domestic affairs. Examples of this kind of activity are:

- (a) Interviewing American citizens who knowingly and willingly share their information about foreign subjects with their government.
- (b) Collect foreign intelligence from foreigners temporarily within the U.S.
- (c) Establish support structures within the U.S. to permit CIA operations abroad.
- (d) Recruiting, screening and training our own personnel.
- (e) Contracting for supplies essential to foreign intelligence operations.
- (f) Providing training to foreigners in the U.S.
- (g) Passing the results of foreign intelligence operations to appropriate U.S. agencies having a legitimate interest therein, e.g., the FBI.
- (h) Under the economy act, providing assistance or service to other U.S. agencies for activities within their statutory authority which do not involve CIA in activities outside its statutory authority.

Question. In the same vein, would you cite instances of CIA assistance to other government agencies which you would view as proper under the 1947 Act?

Answer. (a) Advising the FBI of the imminent arrival in the U.S. of a foreign terrorist.

(b) Training in Communist doctrine and practices to the FBI, Secret Service, etc. Advise other agencies with personnel serving abroad on Communist espionage techniques likely to be practiced against them.

(c) Passage to the Drug Enforcement Administration of results of intelligence operations abroad revealing the details of the drug traffic.

(d) Reporting to appropriate authorities evasion of U.S. export controls as learned by foreign intelligence operations.

Question. Some recent critical press comment has been provoked by the fact that Director Helms approved—or signed off on—the now controversial 1970 domestic intelligence plan. Would that plan, to your knowledge, have involved CIA in activities beyond the authority of the 1947 law, either inside or outside the United States?

Answer. The history of the 1970 domestic intelligence plan demonstrates that CIA participation was limited to the foreign intelligence contribution to meet the problems of internal security. The only specific option considered for CIA was that CIA coverage of American students (and others) traveling abroad or living aboard should be increased insofar as they are involved with foreign subversive elements which might utilize them against the interests of U.S. internal security. If implemented, this would have been consistent with the provisions of the National Security Act of 1947.

Question. There has been recent press speculation with respect to CIA involvement in a reported 1959 attempt to overthrow Prince Sihanouk in Cambodia. Will you comment, please?

Answer. Prince Sihanouk is under a somewhat understandable misapprehension as to CIA's involvement in a 1959 attempt to overthrow him. CIA did not support or instigate that attempt. Some of our allies were involved in support and stimulation of that attempt, and Prince Sihanouk inferred U.S. responsibility from their involvement. His belief was reinforced by his discovery of an intelligence operation conducted by CIA which maintained contact with the leadership of the coup group for intelligence purposes only. Since this group carried a radio and other paraphernalia, Prince Sihanouk inferred that this signified active support of the coup effort rather than merely a contact for intelligence purposes.

Question. A press report from Cambodia published yesterday (Washington Star-News) suggests the development there of a clandestine aid and advisor program similar to that in Laos. Please tell us what role CIA is now playing in Cambodia. Are CIA employees engaged in any activities other than intelligence gathering and analysis?

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Answer. CIA's role in Cambodia is limited to intelligence collection and assessment. CIA reports are passed on to various agencies which make use of these reports as appropriate to their responsibilities and authorities. CIA is not engaged in a clandestine aid and advisor program in Cambodia.

PREPARED QUESTIONS FROM SENATOR NUNN

[Questions submitted by Senator Nunn. Answers supplied by Mr. Colby.]

Question. Had you known Mr. Hunt before June 17, 1972?

Answer. Not to my recollection.

Question. Had you known, before that date, of his work with the Mullen Company and his employment at the White House?

Answer. With respect to the Mullen Co., no as of June 17. With respect to his employment at the White House, no as of June 17.

Question. Did you have any reason to believe he was involved in any illegal activities?

Answer. No.

Question. When did you first learn that there was to be or had been an attempt to conduct electronic surveillance of the Democratic National Committee?

Answer. I first learned of this incident by reading it in the newspaper after it occurred.

Question. After June 17, 1972, who was in charge of handling the responses to FBI inquiries about this affair?

Answer. Mr. Osborn handled the working level contact with FBI. I was assigned to generally supervise the Agency's responses.

Question. What role were you assigned immediately after June 17th in investigating, coordinating, or responding to Justice Department or FBI inquiries?

Answer. Coordination of Agency action on this matter as assigned by Mr. Helms.

Question. What was Mr. Osborn's role immediately after June 17?

Answer. Mr. Osborn was the Director of Security and supervised the working level contacts with the FBI.

Question. Did your role or Mr. Osborn's role in coordinating or responding to Watergate inquiries change during the course of the summer?

Answer. My role did not change. Mr. Osborn's role of coordinating at the working level of the FBI did not change, but the provision of information to the FBI on CIA's support to Mr. Hunt was taken up to the command levels of the Agency.

Question. Why were these changes, if any, made?

Answer. After investigation, the Agency found it had no connection with the Watergate incident. It was concerned that an undue exposure of its activities to the working levels of the FBI would result in leakage to the press and misunderstanding that the Agency might have been involved. The Agency was determined to be responsive to the FBI, but wished to minimize the risk of misunderstanding by providing information on the Agency to the senior level leadership of the FBI only. Incidentally, there were at least two instances of press inquiries which appeared to be leaks of the information provided to the working levels of the FBI, indicating that the concern was justified.

Question. What did your role come to be during the summer and fall of 1972 in coordinating, investigating, or supplying information to the Justice Department?

Answer. My role continued to be one of coordinating the supply of information to the Justice Department as directed by Mr. Helms.

Question. Was a CIA employee assigned to you to work specifically on these Watergate-related matters? When was this done, who was he, what was his role?

Answer. Mr. [deleted] was assigned to work with me on approximately 1 December 1972. He was assigned to help develop the specific answers to Mr. Silbert's questions asked on 27 November 1972.

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Question. When did you first know about and first obtain the photographs developed by the CIA for Mr. Hunt in August of 1971? Did you study these when you first received them?

Answer. I believe I first knew that we had assisted Mr. Hunt with the camera and development of film shortly after the Watergate incident. I believe it was somewhat later that I first obtained Xerox copies of the photographs, in any event a week or more before 27 July 1972.

I examined the photographs when I first saw them and was primarily struck by their focus on Xerox shops apparently in the California area. I could not find any significance in the photograph of Dr. Fielding's parking space and buildings. There was no apparent Watergate connection.

Question. The CIA has provided Xerox copies of these pictures to the committee. Were the pictures in the CIA's possession prints or only Xerox copies of prints? We all know now, of course, that these pictures were related to the office of Dr. Fielding, Dr. Ellsberg's psychiatrist. What do you perceive the pictures to be at the time?

Answer. CIA had only Xerox copies of the prints. My pure speculation was that they were somehow related to an investigation of the manner in which the Pentagon papers were reproduced, since this had been a matter of considerable concern in the summer of 1971. This was primarily based on the appearance of several Xerox shops and I saw no particular significance in the Fielding oriented photographs. I had no idea of who Dr. Fielding was.

Question. Did you inform Mr. Helms in a memorandum of July 27, 1972, that these pictures were "possibly" of the Rand Corporation? What led you to believe that? Did the pictures resemble the Rand Corporation or were you relying on some assumption about Mr. Hunt's activities? Did you suspect that Mr. Hunt had some association with the Pentagon Papers case?

Answer. Yes. The possibility that these were somehow connected with the Rand Corporation stemmed from the presence of several Xerox establishments among the subjects, and its location in California, leading me to the speculation that it was somehow related to the reproduction of the Pentagon papers.

While I used "possibly Rand Corporation," what I was suggesting was "possibly related to the Rand Corporation." For this I was also relying on Mr. Hunt's statement to General Cushman that he had been charged with a highly sensitive mission by the White House to visit and elicit information which in my mind related somehow to the possibility that he was engaged in an investigation of the Pentagon papers leak.

Question. Did you have any suspicion at all that these might be photographs of Dr. Ellsberg's psychiatrist's office? Did you notice that names and license plates were contained in these photos? Did you have any checks done on the names or license plates in these photographs during the summer of 1972?

Answer. No. Yes. No.

Question. Did you discuss these photos with Mr. Helms?

Answer. I believe I told Mr. Helms shortly after I received the copies that we had copies of photographs whose significance we could not determine. I may have shown him the photographs, but I cannot say for sure.

Question. In your July 27, 1972, memo to Mr. Helms, you stated, "I recommend that you or the DDCI advise Mr. Gray of the above . . ." Did you intend by that that Mr. Gray should be informed of the existence of the photos?

Answer. Yes.

Question. Were the copies of the photos forwarded to the Justice Department or the FBI and, if so, when?

Answer. Yes. The photographs were forwarded to the Justice Department on 3 January 1973.

Question. Do you know any reason why they were not forwarded during the summer of 1972? What did you mean by your statement in this July 27, 1972, memorandum that "we hoped that the attached memorandum given by General Walters to Mr. Gray might have calmed the FBI's interest in this subject but the bureaucratic momentum has apparently continued."? Did this refer to Mr.

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Hunt's contacts with the Agency in general? Why did you hope that further information would not have to be provided?

Answer. They were not forwarded because they were of no apparent significance to the Watergate case and because the Agency wanted to avoid possible misunderstanding as to any Agency involvement. By the statement quoted I meant that I hoped that our disclosure of these delicate subjects and the clear indication of their non-relationship to the Watergate case might have reduced the FBI's desire to inquire into sensitive CIA activities, with the inevitable chance of publicity. This was particularly with respect to additional Agency documentation and interviews with employees, which inevitably broadened beyond the specific question into other matters also not related to Watergate but exposing sensitive Agency activities, identities of Agency personnel, etc. I also thought our revelation of the full details at the top levels of the FBI obviously had produced a sense of confidence in CIA's non-involvement but it was clear that the investigating efforts of the working levels were continuing.

Question. In July 1972, did you know that psychological profiles had been done on Mr. Ellsberg by the CIA in 1971?

Answer. No.

Question. Did you know that Mr. Hunt was in some of the meetings discussing these psychological profiles?

Answer. No.

Question. During the summer or fall of 1972, did you have any suspicion that Dr. Fielding's office had been burglarized and, if so, did you have any suspicion that Mr. Hunt had been involved?

Answer. No.

Question. Did you have any intent by mentioning the Rand Corporation to mislead Mr. Helms into thinking Mr. Hunt was working on only legitimate aspects of the investigation of the Pentagon Papers case?

Answer. No.

Question. Sometime shortly after June 17, 1972, did Mr. [deleted] ever discuss with you any knowledge or information that he had regarding Watergate or related matters?

Answer. On 19 June Mr. [deleted] discussed with me his knowledge of Mr. Hunt's visit to General Cushman and the support provided to Mr. Hunt in the summer of 1971.

Question. Did he ever discuss with you the transcript of the meeting between General Cushman and Mr. Hunt on July 22, 1971?

Answer. Yes, at the 19 June 1972 meeting.

Question. Did he ever ask you whether Mr. Osborn was to be informed about this transcript, about Mr. Ehrlichman, or about any other aspect of the Watergate matter?

Answer. No.

Question. Did you ever tell Mr. [deleted] not to inform Mr. Osborn about any matter related to the Watergate investigation, or did you say anything to Mr. [deleted] which might be so construed?

Answer. No.

Question. Did you draft a memo from General Walters to Mr. Gray dated July 7, 1972, which states that alias documentation had been supplied to Mr. Hunt in 1971 in response to a "duly authorized extra-Agency request"?

Answer. Yes.

Question. Had you seen the transcript of the meeting between General Cushman and Mr. Hunt at the time that memorandum was sent?

Answer. Yes.

Question. Doesn't that transcript indicate that General Cushman acknowledged during that 1971 meeting that Mr. Ehrlichman had called him about Mr. Hunt?

Answer. Yes.

Question. Was there any reason not to inform Mr. Gray of this contact by Mr. Ehrlichman in this memo?

Answer. The fact imparted to Mr. Gray was that the assistance given to Mr. Hunt had been duly authorized. It was not believed necessary to volunteer to Mr. Gray how that authorization came about.

Question. Was Mr. Gray otherwise informed about Mr. Ehrlichman's call to the best of your information?

Answer. Not by CIA.

Question. Did General Walters know, when he signed the memorandum, of the transcript or of Mr. Ehrlichman's call to General Cushman?

Answer. General Walters did not know of the transcript. But he had heard that Mr. Ehrlichman had called General Cushman.

Question. Did you and Mr. Helms discuss handling inquiries from the Justice Department or FBI only at the top levels of the CIA?

Answer. Yes, except that the obtaining of the details had to depend upon consultation with sources of information within the Agency.

Question. Are you familiar with Mr. Helms' memorandum to General Walters of June 28, 1972, which discusses the method of handling inquiries from the FBI? If so, when did you first see it?

Answer. Yes. I believe I first saw it sometime in the late spring of 1973.

Question. Did Mr. Helms discuss the substance of this memorandum with you either before or after writing it?

Answer. Mr. Helms gave the substance of the direction as to how relationships would be handled with the FBI in the morning meeting of 19 June 1972, as indicated by those minutes. In the memorandum dated 6 July developed for General Walters to provide to Mr. Gray, the fact of Mr. Helms' telephone call to Mr. Gray was mentioned. I became aware of this in the course of passing that memorandum to General Walters to provide to Mr. Gray, as Mr. Helms was out of the country.

Question. Do you know why the decision was made to request to the FBI "that they confine themselves to the personalities already arrested or under suspicion and that they desist from expanding this investigation into other areas which may, eventually, run afoul of our operations"?

Answer. This position was consistent with our concern that investigations might reveal CIA activities and our belief that they were unnecessary since CIA had no involvement with the Watergate incident.

Question. Did you advise Mr. Helms of any operations which the FBI Watergate investigation might run afoul of?

Answer. Our check indicated that the leads in Mexico did not involve any current CIA assets or activities. Having satisfied ourselves that there was no CIA involvement in the Watergate incident, we were concerned that a possible broadening of the investigation which would reveal CIA foreign activities having no bearing on the Watergate incident would take place.

Question. Did this decision to request that the FBI limit its investigation with respect to the CIA have anything to do with restricting the Justice Department's access to the pictures developed for Mr. Hunt or to the transcript of the Ehrlichman/Cushman meeting?

Answer. No.

Question. Are you familiar with a long, handwritten memorandum from [deleted] to Mr. Helms on about July 14, 1972, contained in the fourth volume of CIA materials which was shown to the Committee staff on Monday of this week?

Answer. Yes.

Question. When did you first see that memorandum?

Answer. I believe Mr. Helms probably passed it to me sometime after he initiated it.

Question. Did Mr. Helms ever discuss the substance of the memorandum with you before you saw it?

Answer. Not to my recollection.

Question. Is it correct that in that memorandum [deleted] reports a conversation with [deleted].

Answer. Yes.

Question. Did [deleted] report in that memorandum that [deleted] the mission of the Watergate burglars on June 17 was to repair an existing bug since "they" (not named in the memo) had obtained such good material from the bug previously?

Answer. Yes. This speculation had also circulated in the press at about that time and thus did not appear novel.

Question. Does [deleted] indicate in this memorandum that there were suspicions that high-level persons had been responsible for the bug?

Answer. Yes.

Question. To the best of your knowledge, was this memorandum or important parts of it shared with the FBI or the Justice Department and, if so, when?

Answer. This memorandum was not passed to the FBI or to Justice Department because it reflected a highly sensitive contact with an individual who [deleted] which we did not wish to attract attention to beyond what had already been reported to the FBI about [deleted].

Question. Prior to Mr. Helms' meeting with Mr. Gray on October 18, 1972, did you know to whom in the Justice Department Mr. Gray was showing material? Did you have any reason to believe Mr. Gray was not showing CIA material to Justice Department officials and prosecutors, but was restricting access to himself and Mr. Mark Felt?

Answer. At some point in time Mr. Gray told us that he was sharing our material with Mr. Mark Felt of the FBI, but that it was not going further.

Question. Did you review the questions which the prosecutors had asked to Mr. Warner of the CIA on October 11?

Answer. Yes.

Question. Did the prosecutors say why they wanted the additional information—was it to present their case in chief or to guard against a claim by the defendants that the CIA was responsible for the Watergate affair?

Answer. Our understanding was that the prosecutors wanted this information since it was their belief that the defense might claim that CIA was responsible for the Watergate break-in.

Question. Did the purpose for which the prosecutors said they wanted the additional information affect the response made by the CIA?

Answer. No.

Question. Did you coordinate or have a significant role in assembling this response?

Answer. Yes.

Question. Prior to Mr. Helms' meeting with the Attorney General on October 24, 1972, did you consult with him about limiting certain CIA material to the Attorney General alone?

Answer. We certainly consulted about limiting the material as far as possible, although it was clear that more than the Attorney General personally might have to be involved.

Question. Do you know what material Mr. Helms requested be limited to the Attorney General in that matter and, if so, why?

Answer. The entire package Mr. Helms provided at that time. We were still concerned about possible leakage of CIA documentation and of the creation of a misunderstanding that CIA might be involved in the Watergate incident. Also, we were concerned that certain of the materials would uncover sensitive operational activities which we did not wish exposed.

Question. Did the CIA receive any indication from the Justice Department at that time not to give certain material to the prosecutors at all? If so, was a reason given?

Answer. Justice Department representatives agreed with our concerns over the sensitivity of the material and indicated they would hold the material but would discuss it with the prosecutors.

Question. Did the CIA receive any indication from the Justice Department not to give certain material to the prosecutors until the time of the trial? If so, was a reason given?

Answer. Again it was agreed that the prosecutors would not be briefed until shortly before the trial to minimize chances for an opportunity of leakage.

Question. If the security of CIA operations were at issue, and the prosecutors should not see it for that reason, wouldn't this be the case at the time of trial as well as before trial?

Answer. Yes, but the risk of leakage would be lessened and it might not be necessary.

Question. Did you and Mr. Helms discuss at any point that such a request from the Justice Department might imply an inclination to limit the investigation of possible criminal conduct?

Answer. No.

Question. Mr. Colby, I would like to read briefly from two memoranda which relate to your meeting with Mr. Petersen, Mr. Silbert, and Mr. Lawrence Houston of November 27, 1972.

Answer. The meeting was with Mr. Petersen, Mr. Silbert and Mr. Warner, not Mr. Houston, on 27 November 1972.

DECEMBER 18, 1972.

Memorandum for the record.

Subject: Meeting at the White House on December 15, 1972, re: Watergate Case.

Participants: Richard Helms and William Colby, CIA; John Ehrlichman and John Dean, the White House.

1. After preliminary remarks, Colby gave a summary of CIA's dealings with the FBI and the Department of Justice with respect to Howard Hunt. He said we first responded at the working level to certain normal questions about Hunt's and friends' earlier association with CIA. However, Hunt's notebook and documents and certain other leads pointed to CIA, and it was determined that an adequate answer to these should be given at the top level of the FBI rather than at the working level. This was done, to Acting Director Gray, and the reply included a response to a follow-up question of the FBI's as to any other alias or documentation. In this description was referred to the names "Warren" and "Leonard" and certain additional assistance given in July and August 1971 as authorized by an extra-Agency official. Colby pointed out that there was no specification of who this official was. Mr. Gray had allowed one other individual to know of this material, W. Mark Felt, and it was our impression that that information had not gone any further.

2. Colby further explained that Mr. Silbert, in charge of the case, had generated some additional questions, including some about the alias "Warren" and a "Mr. [deleted]" whose name and telephone number appeared in Mr. Hunt's materials. Again, the Agency had wanted to respond at the highest level only, and the Director and Mr. Houston visited Attorney General Kleindienst with a memo replying to these questions. The Attorney General had directed that the material not go to the U. S. Attorney's Office, directed Mr. Henry Petersen to handle the matter discreetly and inform Silbert as appropriate. Colby then said that he and John Warner had been asked to visit Messrs. Petersen and Silbert, in which interview Silbert focused in on the reference to a "duly authorized extra-Agency request." Colby said he had danced around the room several times for ten minutes to try to avoid becoming specific on this, finally naming the White House, and was then pinned by Silbert with a demand for the name, at which point the name of the individual was given. Colby said that we have worked up answers to additional questions given by Silbert at that time but suspended submitting them until after this meeting.

3. Mr. Ehrlichman sought some precision about the alleged phone calls in terms of dates, etc. These were given to him as the first phone call being before 22 July

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1971 and the terminating phone call being on 27 August 1971. Mr. Ehrlichman said he did not remember the first one at all. Messrs. Helms and Colby said they were merely working on General Cushman's memory that there had been a phone call requesting some form of general help for Hunt. Mr. Helms pointed out that we would not have been likely to respond to Hunt's request without some such accreditation, as our rules about issuing false documentation are very strict. Mr. Dean asked a few questions about our procedures and whether we had recovered the false documents, to which the answer was given that we had not, although normally we should have done so. A short summary was given of the type of assistance rendered to Mr. Hunt on 23 July and in August and the fact that the demand for a backstopped telephone had triggered our decision to cut off the assistance. Mr. Helms stated that he was quite ignorant of the specifics, as he believes he was first brought into it when Hunt had asked for a secretary to be assigned to him from our Paris Station, and he had concurred that the answer to this and further assistance should be negative. Mr. Ehrlichman took down the dates of the two alleged phone calls and said he would check up on his schedule, etc., to see whether there was any possibility. He said that Hunt at that time was not working for him but for Colson, and he had not joined Ehrlichman's staff until later. Ehrlichman said that he thought Hunt had been working on the tracing of document leaks during that period.

4. The point was brought out that it was our understanding this material was all made available to Mr. Silbert as a preparation against possible questions raised by the defense but that he was now talking in somewhat different terms. Mr. Dean said that he probably would want to use this material to prove that Hunt and Liddy operated in alias and that it would be easier to prove it by a CIA testimony than by witnesses. It was agreed all around this would be a mistake, as the entire matter was totally irrelevant to the main trial and would be a red herring.

5. Mr. Dean was shown the material prepared for passage to Mr. Petersen in response to Mr. Silbert's latest questions. It was agreed that these would be held up. At Mr. Ehrlichman's request, Colby agreed to ask General Cushman to phone him so they could discuss the details of the alleged telephone calls.

6. As an aside, Mr. Ehrlichman recalled a discussion with Mr. Helms in which the latter had given him some "fatherly advice" that Hunt was [deleted] Mr. Helms said that we had perhaps kept Mr. Hunt on a little longer than we should have but that we had several years ago separated him from more operational tasks. It was worked out that this conversation probably took place after the events discussed above, i.e., later in the fall of 1971.

7. Mr. Ehrlichman congratulated Mr. Helms on the Marchetti decision and said that he had instructed Mr. Hampton of the Civil Service Commission to look into the possibility of applying this technique more broadly. Mr. Helms agreed and stressed the importance of some control of classification. In this, Mr. Helms said that he had a somewhat critical letter from Mr. Eisenhower, to which Mr. Ehrlichman said that he also had added one of his own asking that Helms be as forthcoming as possible. Mr. Helms said we would be replying to these in good time. He explained that the intelligence business depends upon a fiduciary relationship of continued secrecy and that we cannot develop sources if we acquire the reputation of declassifying their identities and exposing them to difficulties.

W. E. COLBY, Executive Director-Comptroller.

ADDENDUM

Mr. Colby called General Cushman and said that Mr. Ehrlichman did not remember the first phone call and that it had been arranged that General Cushman should call Mr. Ehrlichman to discuss the matter General Cushman said he would do so.

WEC.

NOVEMBER 27, 1972.

Memorandum for the record.
Subject: Watergate Case.

1. The Executive Director, Mr. W. E. Colby, and the Acting General Counsel, Mr. John S. Warner, met for approximately one hour with Mr. Henry E. Peterson, Assistant Attorney General, Criminal Division, Department of Justice, and Mr. Earl J. Silbert, Principal Assistant United States Attorney for the District

of Columbia, in order for them to address additional questions to the Agency. Mr. Petersen and Mr. Silbert made it very clear that there was no intent on the part of the Government to use any of the information relating to the Agency in its case in chief. They pointed out that they simply wished to know all the facts wherein CIA might be involved in order to avoid surprise moves by the defense.

2. Mr. Silbert made reference to the 7 July 1972 memorandum to the Director of the FBI regarding Howard Hunt, which referred to authorization by another agency. He wished to know which agency. Mr. Colby responded that CIA was the agency that furnished two alias documentations, a recorder (ordinary commercial type), and a disguise. Mr. Silbert wanted to know how this came about. Mr. Colby pointed out that Mr. Hunt had been in touch with the Deputy Director, General Cushman, saying he wanted some assistance and gave the general nature of it. Mr. Hunt stated he wanted to conduct some interviews without giving his identity or being able to be recognized at a later point. Mr. Colby pointed out that Mr. Hunt stated he was involved in an investigation and there was an implication that it had to do with the leak of the Pentagon Papers. Mr. Silbert queried whether this request was checked with anyone in the White House. They asked who was consulted, and Mr. Colby gave them the name and said the individual had indicated that we should help. They wished to know if General Cushman telephoned and if he wrote a memorandum for the record. Further questioning by Mr. Silbert brought out that when Hunt had asked for more from the Agency than he should, i.e., a backstopped telephone number in New York, the Agency cut off all further help. Mr. Silbert wanted to know the individual Mr. Hunt asked for this, and this is to be checked. When Hunt was cut off, Mr. Silbert queried, did we then go back to the White House and so inform them. Mr. Colby answered in the affirmative, saying he would check the details of this.

3. Mr. Petersen and Mr. Silbert both indicated they would very much like to talk with the specific people with whom Hunt was involved and asked whether those individuals made memoranda for the record of their actions and discussions with Hunt. Mr. Colby expressed concern at these people appearing as witnesses and suggested that some senior official could speak to the fact that the Agency did not officially authorize the actions later taken by Hunt and others. Mr. Silbert pointed out that if allegations are made as to what Agency people said, they might well want to put on Agency people in rebuttal.

4. Mr. Silbert asked about any contact with Gordon Liddy. Mr. Colby said he knew of only one contact and that was when he was introduced to the disguise man as "Tom" and was given a disguise and pocket litter. It was not known that "Tom" was actually Liddy until recently. Again, Mr. Silbert made the point that he wanted to talk with the individuals who had talked with "Tom." Mr. Silbert also asked if we had had any other dealings with Liddy while he was in Treasury or the White House. Mr. Colby said he would check this. Mr. Silbert asked us to check if one Robert Thurston Davis was an applicant during 1972. Mr. Silbert also asked for confirmation that James McCord had no other contacts with the Agency after his retirement other than referrals of names and resumes from the retirement placement people. Mr. Colby indicated this was correct and that this could be testified to.

5. Mr. Silbert inquired whether Hunt was involved in dealings [deleted] the Agency. He also asked whether Hunt had had any official dealings with [deleted] Mr. Colby said he would check these matters.

6. Mr. Silbert asked whether Hunt continued his ties with Bernard Barker, referring to the fact that he is mentioned as Barker's supervisor in September 1961. Mr. Colby explained that Barker left the Agency in 1966 and we would check to see if there is any record of Hunt contacts between 1961 and 1966 or thereafter.

7. Mr. Silbert said he very much wanted to talk to [deleted] and [deleted]. After some discussion, Mr. Petersen suggested that statements be gotten from them first to see if there is any necessity in talking with them.

8. There was some discussion about Hunt's correspondence with Mr. Houston, and this was clarified.

9. Mr. Silbert asked if we had had any relationships with Manuel Ogarrio Daguerre. It was indicated we doubted it but this would be checked. There was some discussion of [deleted]. It was pointed out that he was the only one on the Agency's payroll in June and that he has been cut off and has not received

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any funds. Mr. Silbert asked if there was any coincidence in [deleted] retiring on 19 June since he had been in touch with both McCord and Hunt. We said there was no connection but [deleted] simply sent names and resumes in response to requests.

10. Mr. Colby pointed out that the Agency wanted to cooperate in every way but felt that the sensitivity of the matter required that it be done at the Petersen and Silbert level and not at the normal FBI investigative level. Both Mr. Petersen and Mr. Silbert appeared to fully understand the Agency's position in this regard.

JOHN S. WARNER,
Acting General Counsel.

Question. Are both of these memoranda accurate accounts of your meeting with Mr. Petersen and Mr. Silbert?

Answer. I believe that both of these memoranda were reasonably accurate representations of what occurred at that meeting.

Question. If your own later memorandum is accurate, why would you believe it important to avoid becoming specific with Mr. Silbert and Mr. Petersen concerning Mr. Ehrlichman's name?

Answer. The question was one of CIA's assistance to Mr. Howard Hunt. This information was provided. It was pointed out that this assistance was duly authorized. I did not believe it essential to volunteer to the prosecutors the precise authorization under which CIA acted, although I gave that information when asked the direct question.

Question. Did you mention in the November 27 meeting the transcript of the Cushman/Hunt meeting in July 1971, or that Mr. Ehrlichman had initiated a call to the Agency prior to Mr. Hunt's visit there?

Answer. I did not mention the transcript but I did indicate that Mr. Ehrlichman had made the call to General Cushman before Mr. Hunt's visit to General Cushman.

Question. Was this the first time you had ever been asked specifically about the identity of the person who recommended Mr. Hunt to the Agency?

Answer. This was the first time outside the Agency.

Question. So is it fair to say that although you were reluctant at this first meeting you did give the Justice Department this information the first time you were asked?

Answer. Yes.

Question. Did you meet with General Cushman on December 13?

Answer. Yes.

Question. This is apparently prior to the December 15 meeting at the White House with Mr. Helms, Mr. Ehrlichman, and Mr. Dean—how did this meeting with General Cushman come about?

Answer. In preparing the answers to Mr. Silbert's questions I felt it desirable to check General Cushman's memory of these events.

Question. Did you ask General Cushman to write a memorandum to Mr. Ehrlichman at that first meeting?

Answer. No.

Question. Did you show General Cushman at that first meeting the transcript of his conversation with Mr. Hunt?

Answer. At the first meeting I stated to General Cushman that we wanted to be sure of the identity of the White House caller who had sponsored Mr. Hunt's request for assistance in July 1971. I did not at first show General Cushman the transcript. General Cushman replied that he thought it was Mr. Ehrlichman, Mr. Colson, or Mr. Dean or someone such as that whom he knew. I then showed him the transcript and he agreed that it must have been Ehrlichman.

Question. Was he fully aware and did he remember that Mr. Ehrlichman had called him to establish CIA liaison with Mr. Hunt?

Answer. Yes.

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Question: After this meeting with General Cushman on December 13, did you go to a meeting at the White House on December 15 with Mr. Helms, Mr. Ehrlichman, and Mr. Dean?

Answer: Yes.

Question: Did you call General Cushman as the documents indicate you were requested to do in that meeting?

Answer: Yes.

Question: What was the substance of your conversation with General Cushman?

Answer: I advised General Cushman that I had talked to Mr. Ehrlichman who did not remember the first call. I said that we had left it that I would suggest that General Cushman might call Mr. Ehrlichman and reconstruct the event.

Question: Do you know why General Cushman's two versions of his memoranda, provided to the Committee staff, are worded as they are—the first memorandum states that "Mr. Ehrlichman, Mr. Colson, or perhaps Mr. Dean" called up General Cushman to request support for Mr. Hunt, while the second version of the memorandum mentions no names at all? Did you encourage or suggest that the memoranda take this form? Was General Cushman still unsure about who called him after seeing the transcript of his meeting with Mr. Hunt?

Answer: General Cushman wrote his first memorandum using my secretary who had been his secretary at the time. He later called her on 10 January and said that since he did not know what name he was talking about he would simply state that fact. My secretary retyped the memo with the changes and provided it to General Cushman's aide.

I had no connection with the writing of the memoranda beyond making my secretary available.

I had informed General Cushman that Mr. Ehrlichman had not recalled the call and had been out of town the week prior to 22 July 1971. I left it to General Cushman and Mr. Ehrlichman to resolve whether the call was made. (It was not until May 1973 that research revealed a minute item from the CIA morning meeting which indicated that Mr. Ehrlichman had called General Cushman on 7 July 1971 rather than later in the month.)

Question: CIA has provided to the Committee a partial transcript of your conversation with Mr. John Dean on December 20, 1972. What is meant by the statement about being pushed by people on the other end of the relationship? Are there any more pertinent parts of this conversation which are relevant to the subjects we have been discussing today? What is the subject of the rest of the conversation? What did you mean by "we will go to the Attorney General if necessary."

Answer: The statement of being pushed referred to several inquiries which were reported to me from Mr. Silbert as to when he would receive the answers to the questions asked on 27 November. There are no other pertinent parts of this conversation with Mr. Dean as this was the only matter discussed.

By my reference to the Attorney General I meant that CIA's consistent position had been one of objecting to being used in the case in chief rather than as merely background for the prosecutors as this would involve CIA actively in the trial and could create the misunderstanding of our having been involved in the Watergate itself.

Question: One of the documents in volume four of the CIA materials indicates some discussions in which you were involved at the CIA in which it was apparently agreed that [deleted]. Would you describe for the Committee what your role was in this and to whom the denials were to be given?

Answer: The reference to denying association with the Agency referred to [deleted] the maintenance of the cover relationship [deleted].

Question: Did the Department of Justice have the facts in this matter?

Answer: Yes.

Question: There is apparently some further discussion in this memorandum about certain materials having been given to [deleted]. Is this correct and, if so, do you have any reason to believe this material was intentionally false or misleading?

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Answer. I have no independent knowledge of this matter beyond what is stated in the memorandum.

Question. Was this material part of any plan to indicate that some persons were involved in the Watergate affair who were not actually so involved?

Answer. I know of no such plan.

Question. Was this reported to the Department of Justice?

Answer. Not by CIA prior to its being made available to Mr. Cox' staff on 24 July 1973.

Question. One of the documents in volume four of the CIA materials, shown to the Committee staff, indicates that CIA had information in April of this year that Mr. [deleted] was contributing funds to the defense of Watergate defendants—is this correct?

Answer. Yes, CIA had such information.

Question. Would you tell the Committee who Mr. [deleted] is and what his contacts with the CIA have been?

Answer. Mr. [deleted] is a Cuban exile leader who worked on Cuban operations with CIA whose official relationship with CIA was terminated on 13 January 1967.

Question. Who is Mr. [deleted] business associate?

Answer. We are advised that Mr. [deleted] is presently engaged in meat importing business from [deleted] in association with [deleted].

Question. Is it correct that this information about his contribution was forwarded to the FBI?

Answer. Yes.

Question. Do you have any further information about Mr. [deleted] activities in this regard?

Answer. No.

Question. Do you know of any contacts between Mr. [deleted] and Mr. Hunt?

Answer. Only the matter referred to in the memorandum date 19 January 1973 incorporated in the material submitted to the Committee. Our [deleted] was specifically advised at that time that it was not to occupy itself with following the activities of Mr. Hunt as his activities had no connection with CIA.

Question. It has been mentioned in the press that Mr. Hunt may have been planning an illegal entry in Nevada to obtain some information from a Nevada newspaper followed by escape to a Central American Republic. Do you know if [deleted] or anyone else had any connection with any plan such as this?

Answer. No.

PREPARED QUESTIONS FROM SENATOR KENNEDY

[Questions submitted by Senator Kennedy, Answers supplied by Mr. Colby.]

Question. Please supply materials with respect to Colby's meeting with Ehrlichman on or about November 16, 1972.

Answer. A Memorandum of Conversation and a follow-up letter are attached.
17 NOVEMBER 1971.

Memorandum for the Record
Subject: Conversation with Mr. John D. Ehrlichman, Assistant to the President for Domestic Affairs

1. On 16 November 1971, I lunched with John Ehrlichman at the White House. The bulk of our conversation was devoted to a review of our experience in Vietnam, with special focus on the fall of Diem and the problems of organizing the United States Government to fight the revolutionary war with which it was faced in Vietnam.

2. The main point of the lunch came in our discussion of Mr. Ehrlichman's charge from the President to examine the problem of declassifying Government

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documents. He reiterated the President's resolve to do nothing which would cause problems to CIA and its internal documents. At the same time, he pointed out the real problem of how to handle major events, such as the Dominican Republic, the Lebanon landings, the Bay of Pigs, and the fall of Diem, from the point of view of history and the academic insistence upon the declassification of raw information. I suggested two possible vehicles for approaching the problem and promised to submit some follow-up material on them:

(a) Development of an internal classified history of the event during its general time frame, with an effort to be as objective as possible. This history would be accompanied by the key documents and could be declassified as a whole in order to place the event in full perspective and not take the chance of individual documents leaking and possibly being considered out of context.

(b) There are different levels of sensitivity of intelligence documents. For instance, finished intelligence is frequently not terribly sensitive after some time has passed. The same can be said of a number of intelligence reports which are disseminated to customers but which conceal the sources, even during this dissemination. In the last extreme, however, there are internal intelligence documents which almost literally cannot be declassified, since they involve cryptonyms and are in enormous volume, the declassification of which would probably be prohibitive from a point of view of manhours.

3. We left it that I shall send him a few thoughts along the above lines which he might use during his further consideration of the basic problem.

W. E. COLBY.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., 7 December 1971.

Memorandum for: The Honorable John D. Ehrlichman, Assistant to the President (Domestic Affairs)

Subject: Declassification

1. Bill Colby told me of his lunch with you and your discussion of declassification. We have produced the attached outline summary of the problem and a possible solution for your consideration. It obviously would require further detail if it were to be adopted. The important thing, however, is the degree to which it fits your general thinking.

2. If there is anything else we can do to help on this problem, please let us know.

RICHARD HELMS, *Director*.

Attachment as stated.

Subject: Declassification

1. From the parochial perspective of an intelligence officer, the major problem inherent in declassification relates to the risk of compromising operational sources and methods. A report several years old whose substantive content is no longer politically delicate, for example, could nonetheless compromise a still producing source who, indeed, might now be even better or more strategically placed than he was when he provided the report in question. What an intelligence service needs (and strives) to protect are the techniques it employs in going about its business and the human assets, especially foreign nationals, it uses or has used in the past. From an intelligence officer's standpoint, therefore, a document's sensitivity is a direct function of the extent to which that document could compromise sources or methods if it were to fall into unauthorized hands or pass into the public domain.

2. When we address the issue of declassifying the intelligence contribution to major policy decisions or historical events, we are talking about at least three separate types of documents.

(a) *Finished Intelligence*. This appears in the form of National Intelligence Estimates or special memoranda, drawn from all sources, recounting the facts and assessing a situation. In most cases, declassification of such documents would not jeopardize sources and methods, since the sources of the facts and assessments are usually not stated or are obscured so that they are not apt to be disclosed by declassification of the document. The documents may occasionally refer to the original source of material contained therein, but such references could be edited out or generalized so that the original source remains protected. This would require of course careful review of any such material prior to declassification with this thought in mind.

(b) *Disseminated Intelligence*. Some disseminated intelligence, such as technical or communications intelligence, reflects its origins in very specific terms so

that declassification would almost inevitably result in the disclosure of the source. In other cases, such as clandestinely acquired intelligence, generalized source descriptions are used in the disseminations, so that the exact identity of the source remains concealed. In all these categories, the passage of time may to some extent alleviate the damage caused by a disclosure of the source, e.g., the fact that we were reading Japanese codes during World War II is hardly a sensitive matter any more. On the other hand, with respect to some of these sources, the passage of time may not relieve the sensitivity of the matter, particularly on material provided to us by a friendly foreign intelligence service which expects us to keep their relationship with us a permanent secret. Thus in the category of disseminated intelligence, a considerably greater job of editing might be necessary to separate items which could be declassified from those which should not be.

(c) *Intelligence Operational Traffic.* There is a great deal of this material which in almost all cases should not and can not be declassified without a highly inappropriate disclosure of intelligence sources and methods. The material itself is frequently written with special code names which may be valuable in the future. Also the methodology revealed may show things about our service which could be of advantage to an unfriendly power. The true names of our agents and the precise techniques of our operations should in no event be disclosed even after many years.

3. Cutting across the specific problems of declassifying intelligence material is the way our government does business in these times. Thanks to the enormous improvements in communications technology, the government utilizes a flood of separate papers and documents in the course of doing its business. In order to make these manageable at the key decision levels, these raw documents must be collated, summarized and analyzed in the form of over-all reports. This of course is what happens to raw intelligence material through the National Intelligence Estimates and similar documents. Decision-making on major national events is almost always based on the refined product rather than the raw. As noted above, the refined product raises considerably fewer problems of declassification than the raw. For the few cases in which raw documents are used in decision-making, edited versions might be provided.

4. Another factor to be considered is the inter-agency nature of most such major events today. Thus no single department or agency could give an over-all view of a major national event on the basis only of material available to it. The Pentagon Papers display this weakness.

5. A possible solution to the problem might lie in centralizing the production of official histories of selected major events. An historian might be added to the White House staff or the Archivist of the United States might be assigned this responsibility. This officer could serve as a point of coordination and tasking of the various departments and agencies to contribute to a national account of a major event. Department or agency contributions could thus be consolidated into a single over-all account. From the point of view of the intelligence community, this would permit summarization of material considered significant to the event to protect intelligence sources and methods, rather than declassifying raw material. It would also put the focus of the account on the key documents actually used at the national level rather than seeking the impractical aim of declassifying all raw material. Lastly, it would provide an over-all context in which individual raw documents would find a proper place, rather than causing sensational misunderstanding, if and when they came to public notice.

6. Such studies would not satisfy the history purists, of course, but they could meet the legitimate needs of the general public. Criticism could be made that an administration was writing its own histories. The proof of this pudding would be in the eating, i.e., whether the resulting studies were truly objective. The Pentagon Papers have not been subjected to this accusation nor are the Foreign Relations series produced by the Department of State or the studies produced by the Office of Military History.

Question. Please supply materials with respect to Colby's meeting with Silbert and Petersen on or about November 27, 1972.

Answer. Attached Memorandum for the Record dated 27 November 1972.
Attached Memorandum for the Record dated 18 December 1972.
(See p. 163-164.)

Question. Please supply materials with respect to Colby's telephone call or other contact with Cushman, at Ehrlichman's request, after the meeting at the White House with Ehrlichman, Dean, and Helms on December 15, 1972.

a. Attached as addendum to 18 December 1972 Memorandum referred to in previous answer.

b. Telephone Call Made by Mr. Colby to General Cushman on Friday, 15 December 1972—time not indicated, but it followed the meeting Mr. Colby and Mr. Helms had with Mr. Ehrlichman at the White House at 3:30.

Mr. COLBY. I talked to the gentleman with my boss, and he does not remember the first call. We left it—I would suggest that you might give him a call and reconstruct.

NOTE.—My recollection is that this was a very short conversation and that I took down only the essential part of the conversation. I presume that General Cushman indicated his agreement to make the call, but that is not recorded in my notes. (b1p)

c. Telephone Conversation Between General Cushman and Barbara Pinder on 10 January 1973

General CUSHMAN. I had a call from the White House, and they suggested that, since I do not know what name I am talking about, I simply state that. I will send it back to you, along with my copy. I have written in some changes, and I will send Commander Fisher, USN.

Question. Please supply materials with respect to Colby's contacts with Department of Justice, Petersen, Silbert, or other investigators after November 27, 1972, indicating that Cushman's recollection is not clear with respect to the Ehrlichman call.

Answer. I had no such contacts.

Question. Please supply materials with respect to any memos, records, recordings, or other materials, not already provided, relating in any way to the CIA's in-house investigation of Watergate and/or Colby's role in such investigation.

Answer. CIA believes it has supplied all records bearing substantively on the Watergate, to include the CIA's relationship with Mr. Hunt, provision of the psychological profiles, the letters from Mr. McCord, and the contacts of senior officials with Messrs. Haldeman, Ehrlichman, and Dean. There is a large volume of incidental interoffice material addition to these, but it makes no substantive contribution to a full exposure of the CIA role.

Question. Please supply materials with respect to any memos, records, recordings or other materials, not already provided, relating in any way to Colby's relationship to the Watergate investigation and his contacts with persons in the White House, Department of Justice, FBI and U.S. Attorney's office.

Answer. All such material has been provided.

Question. What is the official CIA policy and procedure on preparing memos for the record on such meetings, calls and contacts?

Answer. Significant material is recorded in memoranda or other form and circulated to other officers needing to know the information. There is no rigid formal procedure for this activity, and it is largely left to the individual officer to select those matters he deems significant enough to record.

Question. Your biography released by the White House indicates you were reassigned from AID's CORDS program in Vietnam to the Department of State on June 30, 1971, and remained in the State Department until January 10, 1972. What were your duties at the State Department during this period.

Answer. I returned from Saigon on July 1, 1971, testified before the House Committee on Government Operations and took leave. I began working at CIA immediately after Labor Day 1971 reading in and preparing to become the Executive Director. I was administratively transferred from State Department to CIA roles on October 17, 1971. I became Executive Director on January 10, 1972. I had no duties at the State Department during this period other than preparing my testimony before the House Committee on Government Operations and providing answers to additional questions thereafter.

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Question. Did you have any knowledge of Hunt's visit to the State Department in September 1971 to obtain cables dealing with Diem and Vietnam? Did you handle the White House request on this? Who did? As chief of the CIA's Far East Division in 1968, based in Washington, did you have access to these cables?

Answer. No. I do not know. In most cases I would presume that I did have access at that time.

Question. Would it be correct to say that you still believe, as you testified before the Subcommittee of the House Government Operations Committee (July 19, 1971, p. 182-216), that "The Phoenix program is an essential element of Vietnam's defense against VCI subversion and terrorism . . . U.S. support is fully warranted?"

Answer. Yes. I think it important, however, to point out that my belief is related to the actual Phoenix program as I knew, directed and described it, not to the symbol it may represent to those not familiar with it in detail.

Question. What was the extent of U.S. support? Can you provide the actual funding of Phoenix provided by the United States—via either the Department of Defense budget, the CIA, or USAID? According to the General Accounting Office reports, the level of U.S. funding for pacification during your period of service in South Vietnam was at least 78% to 82% of the total budget; was that also true for the Phoenix program?

Answer. This was contained in my opening statement to the House Committee on Government Operations, Subcommittee on Foreign Operations and Government Information, on July 19, 1971:

U.S. SUPPORT OF PHOENIX

	U.S. counterpart (VN millions)	U.S. dollar equivalent (millions at 118/1)
1968	179	1.53
1969	172	1.46
1970	45	.38
1971 (May)	43	.36
Total	439	3.72

Note: These figures do not include advisory personnel costs which have not been quantified. (Hearings, p. 184.)

Since the Phoenix Program was only a coordinating mechanism, the above amounts do not include the normal expenses of the participating agencies, the military, police, etc, in carrying out their regular functions which might have been coordinated through the Phoenix program.

The United States provided the above direct funding for the Phoenix establishment and this was a high proportion of its direct expenditures. The United States contribution to the participating agencies was a variable proportion which sometimes was high, as in the Rural Development Cadre, and sometimes low, as in the police.

Question. Would you agree that Phung Hoang/Phoenix program, in origin, in funding, in staffing, and in direction, was as much a United States program as a South Vietnamese government program?

Answer. The Phoenix Program by its basic nature had to be a South Vietnam Government program, assisted by the United States, as its purpose was to develop Vietnamese Government capabilities to fend off the Viet Cong attack. There is no doubt that Americans played a major role in suggesting many of the concepts but their function was advisory and providing assistance.

Question. Please provide the Committee with an accounting of the total number of American military or civilian personnel assigned to Phoenix program activities on an average period of time during your involvement with MACCORDS in Saigon.

Answer. The United States personnel assigned to Phoenix activities grew to approximately 600 military and not more than 40 or 50 civilians during my time in Saigon. (See above cited Hearings page 198.)

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Question. In testimony before the House Government Operations Subcommittee you provided the following statistics; can you now up-date them through 1972?

	Captured	Rallied	Number killed	Percent killed	Total
1968.....	11,288	2,229	2,559	16	15,766
1969.....	8,515	4,832	6,187	31	19,534
1970.....	16,405	7,745	8,191	36	22,341
1971 (May).....	12,770	2,911	3,650	39	19,331
Total.....	28,978	17,717	20,587	30	66,972

¹ Sentenced.

Question. How reliable are these statistics, which you have consistently used in testimony before Congress? In this connection, please comment on the following points raised in the attached documents:

(a) In a memorandum to the ACoS, CORDS on 3 February 1970, you wrote: "We have begun the process of improving the accuracy of the neutralizations requiring that a certain percentage of the goals be pre-identified VCI."

This "improvement" began two years after you began your service with CORDS/Saigon, and does it mean that prior to that time Phoenix operations were frequently based on inadequate intelligence so that "targets" were not "pre-identified VCI"? Who, then, were the victims of Phoenix operations if, as your memorandum states:

"There is still an open area which has obviously been exploited in the past of individuals being posthumously promoted to VCI positions when the accuracy of the promotion cannot really be checked."

(b) Is it correct that an "Inspection Guide" for Province and District Intelligence and Operations Coordinating Centers was developed (see attached document), but never utilized in the field?

(c) Explain this statement in the "Inspection Guide":

"Neutralization statistics are usually misleading and often inflated." If this statement is correct, what implications did it have for your direction of the program, the information you presented to Congress, and your assessment of the program?

Given whatever uncertainties there may be in the precision of the statistics of the Phoenix "neutralizations," would it be accurate that they show trends? If so, is there any significance in the fact that the percent of VCI killed in 1968, according to the above statistics, was only 16% during the year you assumed control of the CORDS program, and increased to over 30% in 1970 and 1971. If Phoenix was "not a program of assassination," and the emphasis was on captured and rallied, why the high percentage of "Killed" during 1970 and 1971, when the program was being improved, and lower in 1968 when "abuses" were still evident?

Answer. Since I have no further responsibility for the Phoenix Program, I suggest that this request be directed to the Department of Defense or the Department of State.

As with all statistics in Vietnam, there is a margin of error in the statistics. Since these were reported with direct American advisory assistance, however, I believe they were generally accurate in trend and proportion and give as fair a picture of the program as is available.

(a) The purpose of the Phoenix advisory effort was to bring as much accuracy, order and propriety as possible, in as rapid a manner as possible, into a confused and chaotic existing situation. My reference in the cited memorandum referred only to one action to improve accuracy. There were a variety of other actions taken prior to that time and the general advisory effort was a continuous one of seeking such improvements. The particular reference here was our general concern that too many people were credited to the Phoenix program after military actions and did not reflect the kind of careful intelligence and police identification that was the object of the program. As I have reported, something over 85% of VCI listed as killed were killed by regular forces, mostly in purely combat situations. The advisory guidance stressed capture rather than killing of VCI. The victims cited in the question were probably military personnel in combat situations rather than true VCI. (See above-cited Hearings para 206).

99-275-73-12

(b) I do not immediately identify this document, but I am aware that an inspection staff was established in the Central Phung Hoang Office, which had both Vietnamese officers and American advisors. I believe this guide was developed to improve their inspections and those of similar inspectors at the region level. I know the inspections were carried out but I am not now aware of the extent this particular document was used in them.

(c) The quoted statement reflects our effort to focus inspections on the substantive activity expected of the Phoenix operation and was a warning against purely statistical inspections. As noted above we were continually aware of the weaknesses of the figures and continually attempted to make them more reliable. The specific questions suggested in the guide were attempts to carry on this process of improving the accuracy of the statistics used.

The change in percentages is partly a reflection in the change in standards. The 1968 figures included a high number of captured personnel but this included all categories of VCI. The 1969 figures (after May) were restricted to the A&B categories only. In 1970 the requirement was further made rigid by insisting that captured VCI could not be counted until they had actually gone through the sentencing procedure. As can be noted, this brought about a very substantial decline in the number and percentage of captured or sentenced with similar impact on the percentage killed, although the actual number killed both went up in 1970 and would apparently have gone down in 1971 if the full-year experience had followed the rate through May.

Question. What is the current status of the Phoenix (Phung Hoang) Program? Assuming it continues, does the United States have a supportive, advisory or any other kind of role? Are any American or American sponsored personnel, from the CIA or elsewhere, involved in any way? Are any American commodities or funds, directly or indirectly, from the CIA or elsewhere, supporting any aspect of the Phoenix Program?

Answer. Aside from a GVN national level coordinating committee, the Phung Hoang program has been incorporated within the national police of Vietnam and is no longer a separate program. The United States does not have a support, advisory or other role with respect to the Phung Hoang program, although CIA maintains liaison and assists the Special Police Branch of the National Police in its intelligence functions. The United States advisory effort with the Phung Hoang program was terminated in December 1972 and U.S. assistance to the Phung Hoang program through the Department of Defense ended at the same time. Aside from this relationship with CIA, I am not informed about the uses made of other assistance which might be supplied by the United States.

Question. The record indicates that the Phoenix program had extensive United States involvement over a period of years; are there any precedents for this type of involvement or program?

Answer. Yes. Similar programs have been applied by many governments when faced with a threat to their survival engendered by armed insurrection, particularly when the latter was externally supported.

Question. Does the United States, either through the C.I.A. or Department of Defense, support such programs as Phoenix elsewhere?

a. *What about Laos and Cambodia? Does U.S. paramilitary activities in these countries involve Phoenix program functions?*

Answer. The United States is not engaged in any such activities in Cambodia. [Deleted.]

Question. Are there plans, anticipations, or personal convictions on your part, that Phoenix programs should be supported by the United States in the Philippines or Thailand or elsewhere?

Answer. Under the Nixon doctrine I do not envisage a large-scale U.S. involvement in internal counter-subversive or counter-terrorist activities on the scale experienced in Vietnam.

Question. In your testimony before the House Government Operations Committee and the Senate Foreign Relations Committee (in 1971 and 1970, respectively) you acknowledged that there were "abuses" and operational problems with the Phoenix program, and that you and your CORDS staff were working to improve the program. Others have testified that many of these abuses and operational gaps were implicit in the program. To clarify this, please comment on the following:

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(a) Please review and comment on the specific operational problems identified in the testimony of Mr. Samuel A. Adams, former employee of the Central Intelligence Agency. (Statement attached)

(b) Please review and comment on the four operational problems identified in a memorandum prepared for the Committee by Mr. Gary D. Murfin, formerly attached with the Office of the Assistant Chief of Staff of MACCORDS, Pacification Studies Group. (Memorandum attached)

Comment specifically on the concluding paragraph of the memorandum:

"The point which should be made is that while some positive steps were taken to correct the deficiencies in the Phung Hoang program, many of those actions were merely administrative solutions to more substantive problems. Solutions were always sought; however, when found, they were often not properly implemented. In fact, this was the main problem endemic to the entire program: excellent conceptualization and planning was frequently followed by poor implementation."

Answer. (a) Mr. Adams points out a number of the operational problems in the Phoenix Program of which I was fully aware. I believe that over the period from its start in 1968 to my departure in 1971 that a substantial number of those problems were lessened and that the program made a contribution to the strengthening of the Vietnamese people and government against the Communist apparatus. I believe the best example of that was in the absence of any substantial guerrilla or terrorist support to the North Vietnamese military assault in the spring of 1972.

(b) The neutralization of leadership elements was frequently followed by the replacement of individuals removed. However, we received reports in significant numbers of village infrastructure leadership no longer able to operate in their geographic areas but only in protected base areas, of committees reduced in membership to token status, and of major reductions in VCI activity. We certainly did not eliminate the VCI except in certain areas, but I believe there was a reduction in its effectiveness.

The question of goals was the subject of continual discussions and many officers agreed with Mr. Murfin that they should not be utilized. I believed the contrary for the pacification program as a whole as I found goals a useful way to require activity down through the structure to the lowest areas. We made efforts to police the statistics and other reports for accuracy and I believed the use of specific goals essential to the implementation of the program.

Certainly there was a lack of ideal coordination among the variety of agencies, U.S. and GVN, working in all activities in Vietnam. The Phoenix Program was an effort to reduce this lack of coordination by providing a center for it to take place.

Training courses were developed for both Vietnamese and American personnel in the Phoenix Program. There were certainly some failures in motivation, but I also found a large number of Vietnamese and American officers working with full motivation on the program. This is a normal problem with any large operation. Conception and planning are the easiest parts of making a program work. Implementation depended on energetic leadership and an energetic advisory effort. I found the CORDS personnel certainly highly motivated in trying to bring about the best possible implementation. With the Phung Hoang as with all programs in Vietnam, there were continuing problems of short-tour American advisors, Vietnamese sensitivity to being told what to do and cultural and social weaknesses. These were all merely problems to be overcome, not barriers to improvement. With all the difficulties I believe the best indicator of results lies in the countryside where both security and cohesion improved so markedly from 1968 to 1972.

Question. Attached is a copy of MACV Directive #525-36 for U.S. military personnel participating in the Phoenix program, dated May 18, 1970. This Directive raises several questions:

a. If U.S. personnel are "specifically unauthorized to engage in assassinations or other violations of the rules of land warfare," why then does the Directive state that if an individual finds the program "repugnant" he can be reassigned from the program without prejudice? What is meant by "repayment"? What activities does it refer to?

Answer. This provision was included in order to permit individuals to be relieved from the program on their own application. It was envisaged that individuals might find discomfort in the individual identification of enemy terrorists and apparatus members and the coordination of operations against them,

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a much more individualized and personal form of battle than that of normal combat forces using heavy weapons and supporting fires. There was no implication in this Directive of any condoning of unlawful activities and in fact the purpose of the Directive was to draw the attention of personnel to the necessity of following the normal, legal, and moral constraints applicable to the United States forces in combat. This Directive formalized an earlier instruction to CORDS personnel clarifying their obligation in the aftermath of rather sensational charges in the U.S. press that the Phoenix program was a program of assassination and was designed to make plain that it was no such thing.

Question. Given your testimony that the Phoenix program is not an assassination program, and that those killed were "killed in the course of normal military operations or police actions or while fighting off arrest." Please define what "ambush" and "normal military operations" mean in the context of Phoenix? Describe what a typical Phoenix "ambush" would involve, in terms of personnel, scenario, and organization.

Answer. I did not say that all were killed in the course of normal military operations. I stated that the Phoenix program was not an assassination program and that most of those killed were killed in combat situations, normal military operations, or police actions, or while fighting off arrest with the use of armed force.

The "normal military operations" and "ambush" terms referred to the activities of the regular forces, the Regional and Popular Forces and the Peoples Self-Defense Forces, and the various military and paramilitary activities they conducted to protect the Vietnamese community against North Vietnamese and Vietcong military guerrilla and terrorist forces.

A Phoenix "ambush" might involve the disposition of military units along an anticipated route of a Vietcong infrastructure leader with his armed protection forces, often of platoon or company size. In the resulting fire fight he might be killed or he might be captured.

Question. Over the years there have been many allegations in the press and elsewhere over the mistreatment and torture of prisoners in Vietnam prisons. Generally discuss your understanding of this issue, your knowledge of mistreatment and torture, and your assessment as to whether or not mistreatment and torture was or continues to be a serious problem.

Answer. I believe that the work of the American advisory effort reduced but did not eliminate mistreatment or torture in the course of the Vietnamese war. Any single case is a serious problem but there were a number of indications that the omnipresence of American advisers provided a substantial restraint on behavior of this sort as it was clear to many Vietnamese that the Americans did not condone such behavior and might report the behavior to levels of the U.S. and GVN which would take corrective action. You will note that MACV Directive 525-38 calls for this specifically. On this point any experienced intelligence officer is aware that bad methods of interrogations are apt to produce bad intelligence.

Question. Typical of these allegations is a report of former members of the American Friends Service Committee in Quang Ngai. Comment on their attached allegations.

Answer. I am aware that the American Friends Service Committee in Quang Ngai testified about several specific cases of prison brutality that they had treated. I certainly would not contest that specific testimony. The material attached, however, is so generalized that I am unable to deal with it as specific cases, but I believe that the comments give an inaccurate overall portrayal of procedures in Quang Ngai. On the national scale a variety of activities were undertaken to improve prison conditions. Those accomplished by 11 December 1970 are reported in the attached summary. I believe the CORDS effort in this area substantially improved the facilities and treatment of individuals held in Vietnamese prisons although I do not contend that all abuses were eliminated. In every war or wartime situation, things happen that no one can condone. Quang Ngai was one of the most bitterly contested areas in Vietnam and was an area of continuous struggle for more than two decades. Passions there ran high on both sides and the activities properly condemned by the Quakers occurred in the context of this prolonged bitter struggle.

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FACT SHEET

Subject: Correction and Detention Centers.

Purpose: To provide information concerning the programs in progress to ameliorate problem areas of diet, occasional abuse, discipline, and segregation concerning prisoners.

FACTS

1. Sentenced inmates confined in Correction Centers will receive a daily ration allowance of forty piasters on 1 January 1971. They received 25 piasters in 1968.
2. Suspect offenders confined in National Police detention facilities will receive a daily ration allowance of 24 piasters on 1 January 70. They received 19 piasters in 1968.
3. On 6 October 1970, the Prime Minister approved the assignment of a resident advisor to Con Son Island. Mr. O. Gordon Young was immediately assigned to this task. Direct radio communications were established.
4. The United States Government provided a fishing vessel (LCM-8) for Con Son Island in November 1970.
5. Approximately VN\$200,000.00 piasters were provided the GVN to procure spare parts as may be required for the fishing vessel.
6. Approximately VN\$2,600,000.00 piasters were provided the GVN to procure fishing equipment as required to provide a fresh fish food supply to all prisoners on Con Son.
7. Approximately VN\$2,540,000.00 were provided the GVN to procure POL for the fishing vessel for one year.
8. A Public Safety Marine Police advisor has been assigned to Con Son Island to train an inmate fishing boat crew, advise on advanced fishing techniques and assist in the implementation of papers distributing methods of fresh fish to prisoners.
9. Medical services are held daily at every facility for all inmates. Smallpox and cholera shots are given to all newly admitted offenders and administered on a regular basis thereafter. Very ill patients are housed at provincial hospitals. In 1967, only seven Correction Centers provided such treatment and the National Police reflect that such services were not available at any of their jails.
10. A 1000 man juvenile reformatory has been constructed at Dalat. This center will provide juvenile treatment away from hard core offenders. Operations will commence during the first quarter of CY 71. Approximately VN\$16,000,000.00 has been provided the GVN for procurement of vocational, handicraft and educational materials and supplies, clothing, recreational and library items are also programmed.
11. A 500 space center at Tan Hiep now provides segregated housing as an adjustment center for aggressive female offenders. This center has enabled the GVN to transfer and segregate females from Con Son Island and other centers.
12. Two hundred isolated cells are under construction on Con Son and the completion date is estimated to be 1 April 70. These cells will house the aggressive inmates and provide their segregation from the mainline population.
13. Classification committee teams have been instituted on Con Son Island. These teams provide individual interviews of each of the 2,400 inmates who are shackled by the Center Warden for participation in a strike. To date, the committees have released 300 persons from shackles. These inmates have returned to work and the interviews continue.
14. U.S. Mobile Medical and Dental Teams have been utilized on Con Son to provide help to the prisoners. The MACV Surgeon General's Office has indicated that such services will be available nation-wide to Correction and Jail Facilities in CY 71 upon request. All Public Safety advisors have been directed to fully utilize such teams.
15. A work release program has been finalized by U.S. advisors and forwarded to the GVN for adoption. This program will provide that persons who are sentenced for a period of less than one year be remanded back to their home environment and make periodic check-ins with the National Police in lieu of prison confinement.
16. A parole system has been finalized by U.S. advisers and will be forwarded to the GVN for adoption.
17. On November 19, 1970, the Director of Corrections forwarded to the Prime Minister a Manual of Standards resembling the American Correctional Standards. A specific section of this report outlines that staff who exert abuse on inmates will be subject to arrest and conviction. The DOC manual is currently under study by the Prime Minister.

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18. A MACV Directive has been finalized and specifically tasks the Military Region Deputies for CORDS, Province Senior Advisors and Public Safety Advisors to provide continuous inspection, cross-check and follow-up of all matters pertaining to the subject facilities and their inmates.

Question. Typical of available CORDS records on inspections of prisons and monthly reports of the Correction and Detention Division of the Public Safety Program, are a January 7, 1970 "Memorandum for the Record" on prison facilities in Quang Nam and Quang Ngai Provinces, and a monthly report for May, 1970. No comment is made in these attached documents about such items as false arrests, interrogation procedures, possible mistreatment and torture of prisoners, et cetera. Do other reports cover these items? If so, what is the general theme of their contents since 1969? Submit documentation.

Answer. I have no documentation available on these matters beyond the MACV directive developed and reported in the hearings before the House Committee on Government Operations (p. 228-229). Quarterly reports on correction center inspections were required and submitted. I have none available.

Question. Comment on the so-called "paralyzed" prisoners associated with Con Son and Chi Hoa prisons, and referred to in the attached memorandum of January 26, 1973.

Answer. The memorandum summarizes my knowledge of that case prior to my departure from Vietnam. Arrangements were made to have qualified medical examinations of these prisoners and actions taken to improve the circumstances in which they were housed.

Question. What are the annual estimates since 1968 on the number of VCI?

Answer. The total number of VCI was subjected to a variety of definitions which caused rather substantial fluctuation in the figures assigned. As a result the numbers were not in any sense as reliable as one would have preferred and there is considerable debate among intelligence and other analysts on this topic. Various statistics were used as operating tools but I was well aware of their frailty.

Question. What are the annual statistics since 1968 on number of VCI captured (or sentenced) or rallied or killed?

Answer. The statistics available to me on my departure were contained in the House hearings on page 13.

Question. Who were these neutralized VCI—in terms of categories A, B and C, or any other relevant categories?

Answer. I do not have these statistics available. However, the neutralized VCI from 1970 on did not include C category. Those captured were only included after sentencing.

Question. What is the significance of the neutralization statistics? How important are these statistics in measuring the Phoenix impact on VCI, and the success of the neutralization program?

Answer. The statistics were used as management tools to determine the trend lines and the quality of performance of the various elements of the Vietnamese in carrying out the neutralization program against the Vietcong terrorists and command structure. The statistics are useful but not conclusive in measuring the impact on the VCI neutralization program. A wide variety of other indicators are required before one can arrive at a useful conclusion on the subject.

Question. Comment on these items and their contents—a. [deleted] 1970 cable [deleted] from CIA Director to Chief of Station in Saigon, which poses a series of questions regarding VCI—(note: in commenting on these questions, an internal CIA memorandum subsequently stated: [deleted]. b. a [deleted] 1970 cable from the CIA Chief of Station in Saigon to the Director, which responds to the questions of [deleted].

Answer. My first comment is one of concern at the apparent leakage of two CIA documents reflecting policy-level considerations and concern in the middle of an armed struggle in Vietnam. On the questions posed, these reflect questions and differences with respect to the struggle against the Vietcong infrastructure which were known to many observers and participants in the struggle. As I have previously stated I have never been totally satisfied with our intelli-

gence coverage of the Vietcong infrastructure and these questions are ones which I shared and at the same time tried to resolve.

Question. How relevant are the contents of the [deleted] cables to the situation in 1973?

Answer. I think there are a number of intelligence indicators that VCI strength in 1973 is considerably less than it was in 1970, both in terms of numbers and, particularly, in terms of effectiveness and capability. There are several factors present in 1973 which were not present in 1970: Since the January 1973 Paris Agreements, North Vietnam has infiltrated ethnic North Vietnamese administrative and political personnel to perform VCI functions that would certainly be performed by ethnic southerners if the latter were available. Furthermore, the North Vietnamese have had to dispatch northerners to perform these local functions despite the release of substantial numbers of civilian prisoners (former VCI) held by the GVN, who would presumably be available to resume their VCI activities on the other side. In 1973, there is of course a much higher degree of GVN presence, security and effective administrative control in the countryside than there was in 1970. This may well reduce the incentives to participate in the VCI, even for Communist sympathizers. Factors such as these, I believe, make the July 1973 situation appreciably different from that of June 1970.

Question. Paragraph [deleted] of the [deleted] 1970 cable states, in part: [deleted] In light of the developments since 1970, the massive disruptions of 1972, the ceasefire agreement of 1973, and the current situation in South Vietnam, comment on this statement.

Answer. I believe the strength and effectiveness of the VCI has been substantially reduced since 1970. I would prefer not to set a statistical level. The VCI and the North Vietnamese are infiltrating some additional strength, as noted above, but there is no indication at this time that the VCI has gained strength or effectiveness since January 1973.

Question. Define the objectives of the Phoenix Program. With appropriate documentation, what is your understanding of the degree of success or failure in accomplishing these objectives?

Answer. The Phoenix program was designed to bring order and effectiveness to the government, if not the Communist, side of the struggle between the VCI and the people and government of South Vietnam. I believe it made a substantial but not necessarily decisive contribution to the government's ability to resist the attempt to overthrow it and the massive military assault in 1972.

PREPARED QUESTIONS FROM SENATOR HUGHES

[Questions submitted by Senator Hughes. Answers supplied by Mr. Colby.]

Question. Can you tell us publicly the budget totals for the CIA and for the rest of the intelligence community? If not, how are we to judge whether these amounts are appropriate in view of the intelligence product and the competing claims for government resources?

Answer. The budget totals for the Central Intelligence Agency and the members of the intelligence community have traditionally been maintained on a classified basis and revealed only in executive session. I defer to the appropriate congressional authorities for any change in this procedure. Budget requests are reviewed in detail in the Agency's annual budget hearings with the Appropriations Committees of the Senate and the House of Representatives.

Question. In order for the responsible committees of Congress to do their work on national security matters in a better informed way, would you accept legislation requiring the CIA to furnish these committees regular and special reports on matters within their purview, subject of course to proper security measures? Would this not be a valuable addition to the infrequent and wide-ranging briefings now given the Committee?

Answer. The Director of Central Intelligence traditionally has given briefings on the world situation and on specific topics to a number of Senate and House committees. I will review the matter and report to the Armed Services Committee on the possibility of supplementing such briefings by appropriate written materials, provided these can be maintained on a classified basis. I think this can be accomplished without legislation.

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Question. What steps have been taken or will you take to ensure that the CIA never again will be involved in domestic American activities, as it was in the training of police personnel from several U.S. cities and in the assistance to Howard Hunt and Gordon Liddy?

Answer. A careful review has been made of all possible Agency involvement in domestic American activities, and instructions are being issued to ensure that no violation of the limitations of CIA's statutory authority takes place in the future. With respect to the training of local police personnel, I reiterate Dr. Schlesinger's assurance that, despite the fact that its legality might be defended, any further such action will be taken only in the most exceptional circumstances and with the Director's personal approval. Regulations are being developed with respect to CIA assistance to other U.S. agencies and personnel to ensure that any such assistance raises no question of CIA involvement in domestic American activities.

Question. Mr. Colby, published reports say that your experience has been in the plans and operations side of the CIA rather than in intelligence or science and technology. Because of the availability of new technical intelligence gathering means, not to mention the backlash and suspicion in many areas of the world regarding agents, do you believe that the time has come to reduce some of our overseas operations in order to put greater stress on intelligence analysis and science and technology?

Answer. Over the past fifteen years great stress has been placed on scientific and technological intelligence gathering, which has made a great contribution to accurate knowledge of important foreign developments. Overseas intelligence operations must only be conducted in circumstances fully justifying the risks involved and in situations which cannot be covered by more normal methods. Analysis has made a substantial contribution to intelligence and is being improved and refined to the greatest degree possible.

Question. Published reports also give you a key policy role in decisions to involve the United States in clandestine operations in Laos in the late 1950s and early 1960s—operations which grew into a secret, CIA-run war.

On reflection, do you believe that it was wise for the Agency to get involved in such military operations?

Answer. The Agency's activities in Laos were undertaken in direct response to Presidential and National Security Council direction in order to carry out U.S. policy and at the same time avoid the necessity for unformed U.S. involvement in Laos. These activities grew in size over the years to meet greater North Vietnamese and Pathet Lao pressure. The size to which these operations grew made it difficult to maintain normal intelligence procedures. Despite the difficulties for CIA, I submit that the Agency fulfilled the charge given it efficiently and effectively.

Question. Do you believe that it is proper under our Constitution for such military operations to be conducted without the knowledge or approval of the Congress?

Answer. The appropriate committees of the Congress and a number of individual senators and congressmen were briefed on CIA's activities in Laos during the period covered. In addition, CIA's programs were described to the Appropriations Committees in our annual budget hearings.

Question. Where should the line be drawn between CIA and Defense Department activities involving the use of armed force?

Answer. In general, the line should be drawn between CIA and the Defense Department with respect to armed force at the point in which the United States acknowledges involvement in such activities. As a practical matter, however, the scale of the activity will, in many cases, also affect whether the United States is revealed as engaged in the activity.

Question. Where do you—and should we—draw the line between simply gathering intelligence and manipulating events or interfering in the internal affairs of other countries? In particular, why should the CIA play any role in nations of the underdeveloped world which pose no conceivable threat to us?

Answer. As indicated above, the use of intelligence techniques should be reserved to cases of importance in which no other means will serve. This same

approach is even more stringently applied to any activity which could be construed as interfering in the internal affairs of other nations, and such activities are only conducted under the specific direction of the National Security Council. With this approach, it would be unlikely that CIA would play a role of this nature in any nation whose policies pose no conceivable threat to United States interests.

PREPARED QUESTIONS FROM SENATOR PROXMIRE

[Questions submitted by Senator Proxmire. Answers supplied by Mr. Colby.]

Question. Given your previous testimony that it is up to Congress to decide to release the intelligence community budget, please indicate the degree to which this information can be prudently broken down. By Directorate? By Office? By function?

Answer. This question is an excellent example of the problem raised by the release of intelligence budget figures. While I believe that disclosure of the total figure of the intelligence community budget would not present a security problem at this time, it is likely to stimulate requests for additional detail. There is a danger to national security in the release or leakage of such detail; there is also a potential danger to national security in the revelation of trends of different details of the budget over several years even though any one year's figures would not present a major problem. For example, a substantial decline or increase in the funds provided to any one intelligence system would be a clear indicator of a change of emphasis on that system, which could alert possible targets of such a system. Thus, I rely upon Congress to make the determination, but I cannot positively recommend the publication of the total or any subdivision thereof. The information requested is of course fully available on a classified basis to the appropriate subcommittees of the Appropriations and Armed Services Committees upon request.

Question. Is there any national security reason why the manpower statistics for the CIA and other intelligence components cannot be released publicly?

Answer. The same considerations discussed above for the budget figures apply to manpower figures. For example, the allocation of manpower among programs would immediately reveal a high degree of emphasis on one particular collection technique and could only alert other powers to need to protect themselves against that.

Question. Have you provided the committee with an indication where the intelligence budget is hidden in the federal budget? If not, why not?

Answer. The location of the intelligence budget is fully known to the Chairman and members of the Appropriations Subcommittee dealing with intelligence. To the extent desired, it has been and could be made available to members of the subcommittees of the Armed Services Committees on request. The appropriations arrangements are in accordance with the wishes of the Appropriations Committees.

Question. What is the proportional allocation of the CIA budget by directorate?

Answer. By function, the 1974 CIA budget is allocated as follows: [deleted] of the total budget is devoted to collection activities; [deleted] is devoted to production activities; [deleted] is devoted to special operations; and [deleted] is devoted to support, including the operation of the [deleted].

The Agency's budget is allocated among its four directorates as follows: The Directorate for [deleted]; the Directorate for [deleted]; the Directorate for [deleted] and [deleted]; and the Directorate for [deleted] and [deleted]. The remaining [deleted] is allocated to the DCI Area.

Question. How has this (proportion allocated to each function or directorate) changed in the last ten years?

Answer. In functional terms, collected of intelligence consumed [deleted] of the CIA budget in 1964; today it is [deleted]. Production accounted for [deleted] of the Agency's total in 1964; today it is [deleted]. Special operations used [deleted] of the Agency's resources in 1964; today that percentage is [deleted]. Support in 1964 used [deleted]; today it is [deleted].

In organizational terms, the DCI Area [deleted] from [deleted] to [deleted] of the Agency's total during the period 1964 to 1974; the [deleted] Directorate [deleted] from [deleted] to [deleted]; the [deleted] Directorate [deleted] from [deleted] to [deleted] during the same period; the [deleted] and [deleted] Directorate [deleted] from [deleted] to [deleted]; and the Directorate for [deleted] and [deleted] has [deleted] from [deleted] in 1964 to [deleted] today.

These figures are general because there have been a number of organizational changes within the Agency over this 10-year period which affect the comparability of these figures, especially with respect to the directorates. The above figures are considered quite sensitive for the reasons outlined in the answer to question 1, i.e., the ability to deduce the major thrust of our intelligence effort. For this reason, these are held on a most restricted basis even within the Agency.

Question. Who audits the CIA budget? With what frequency?

Answer. The CIA budget is reviewed by the Office of Management and Budget in detail prior to inclusion in the President's recommended overall budget to Congress. With respect to auditing CIA expenditures, there is an audit staff within CIA reporting to the Director through the Inspector General, which audits all Agency accounts. In most cases this is done on an annual basis although some of the small accounts are audited on a less frequent basis. In some situations outside audit firms are used or the Defense Contract Audit Agency is used on accounts where this is appropriate. In addition, there is an industrial contract audit staff to audit many of the Agency's contracts with industry. In certain larger accounts a resident auditor conducts continuing audits.

Question. What economies have been instituted in the last five years? At what savings?

Answer. By far the most significant economies and savings that have been instituted in the past five years flow from the overall reductions in personnel which have been carried out by the Agency. From a 1967 total of [deleted] positions, the Agency has been reduced to a 1974 budget level of [deleted] positions with still further reductions to [deleted] as a result of decisions made after the budget request was determined in December. The total reduction over the period 1967 to 1974 is [deleted] positions or [deleted].

Our budget today would be [deleted] higher if these personnel reductions had not been taken. Cumulative savings resulting from these personnel reductions total [deleted] over the period 1967 to 1974.

There have been numerous other reductions and savings the Agency has absorbed significant cost increases overseas and in the U.S. in recent years. Since 1967, the Agency budget has fluctuated between [deleted] and [deleted]. Our pending Congressional request is [deleted]. During this same period, the percentage of our budget devoted to personal services has increased from [deleted] even while total personnel levels have been declining. This has meant a significant reduction in funds available for other than personnel, and it indicates the extent to which we have been forced to reduce and consolidate our activities.

Question. Given the fact that many thousands of employees at CIA and other intelligence agencies have been shown the National Security Council Intelligence Directives as part of their indoctrination/familiarization process, why have not these NSCIDs become a part of prior Congressional briefings?

Answer. National Security Council Directive, as are all sensitive intelligence documents, are made available only to employees with a "need to know." Many employees are aware of NSCIDs and the general nature of them but do not see them directly. While the NSCIDs are not Agency documents, I have been authorized to show them to the subcommittees on a classified basis.

Question. What authority does the National Security Council have to interpret and extend the National Security Act of 1947 without the approval of Congress?

Answer. The National Security Act of 1947 provides that the National Security Council shall issue directives pursuant to the Act.

Question. What is the CIA's official position on the bill S. 1935?

Answer. CIA's position on this bill will be made available to Congress upon appropriate clearance by the Office of Management and Budget for the President.

Question. What reason does the National Security Council give for not making public the secret "Charter" of the CIA, the NSCIDs?

Answer. I respectfully suggest that this matter be raised with the National Security Council.

Question. Could you provide copies of National Security Action Memorandums (NSAM) numbered 55, 56, and 57 to the Committee?

Answer. Since these three documents are Presidential documents, I do not have the authority to release them.

Question. Is it accurate that NSAM 55, to the Chairman of the Joint Chiefs of Staff, charged him with responsibility for all military type operations by the intelligence community? Is this NSAM still in effect? How is it presently interpreted?

Answer. Since the document is a Presidential document, I do not have the authority to release it.

Question. Is it accurate that NSAM 57 expressly set out guidelines for operations being restrained to a small size and only then with adequate deniability? Is this NSAM still in effect? How is it presently interpreted?

Answer. Since the document is a Presidential document, I do not have the authority to release it.

Question. What other NSAMs or other forms of direction from the executive department detail or describe the operations of the CIA or other intelligence components? Are these available to the Committee?

Answer. Operations of the CIA and other intelligence components are conducted under the authority of the NSCIDs and a variety of other executive orders and directives. I have been authorized to brief the Committee on the basic ones, the NSCIDs, on a classified basis.

Question. At the present time, is the CIA or any other intelligence components engaged in training or assistance to any law enforcement agencies or bodies within the US aside from the FBI? Where and under what arrangements?

Answer. Yes. CIA disseminates its foreign intelligence reports to several agencies concerned with the matters covered in these reports such as the Drug Enforcement Administration, the Immigration and Naturalization Service, the Armed Services, the Customs Service, the Secret Service and others on a routine basis. With respect to training, we provide limited training to the Drug Enforcement Administration personnel in inter-agency procedures, intelligence coordination practices in overseas missions, to the Secret Service in defensive driving and explosives and demolition devices as related to the Secret Service protective responsibilities against terrorist activities and to representatives of USIB members in counter-audio surveillance measures. Any such training by CIA is undertaken only upon formal request and detailed review and senior approval.

With respect to other intelligence components, I do not have precise information immediately available but will determine that if the Committee so requests.

Question. At the present time, with how many foreign internal security or intelligence agency organizations does the CIA have contact? How many have representatives here in the United States? How are these arrangements formalized?

Answer. [Deleted.]

Question. Has the CIA ever trained or assisted in the creation of foreign intelligence agencies? When and Where? Under what authority? Is any such assistance presently being carried on?

Answer. [Deleted.]

Question. Moving to the question of domestic CIA operations, would you please describe the full extent of CIA operations here in the US including those that relate to overseas programs?

Answer. CIA's operations in the US can be summarized as follows:

(a) Headquarters and administrative activities, to include procurement, recruitment, security clearances, experimentation, training, etc.

(b) *Domestic collection*, American citizens are interviewed on a knowing voluntary basis for their knowledge of foreign intelligence which they will share with their Government.

(c) *Foreigners*—operations are conducted to collect foreign intelligence from foreigners temporarily resident in the US.

(d) *Mechanisms, relationships and facilities* are required within the US to support foreign intelligence operations abroad.

(e) *Analysis and research* of foreign intelligence matters by CIA staff and contractors, consultants and institutions.

Question. Would you explain the role of the Domestic Contact Service?

Answer. Domestic collection—American citizens are interviewed on a knowing and voluntary basis for their knowledge of foreign intelligence which they will share with their Government.

Question. Is it true that the Domestic Contact Service now has been placed under the organizational authority of the clandestine services? If so, why?

Answer. Yes, in order to improve the coordination of its collection activities with those of the Agency abroad.

Question. Have covert programs or personnel ever been run out of or in cooperation with DCS operations or offices? If so, under what conditions?

Answer. Covert programs are not run out of DCS offices but DCS contributes from time to time to the identification of operational opportunities.

Question. Would you please indicate the relationship between the CIA and the following organizations: Foreign Broadcast Information Service, Air America/CAT, Joint Publications Research Service, Interarmco, Southern Air Transport, Saturn Airlines.

Answer. FBIS is the oldest element of CIA. It was established in 1941 and became an element of CIA upon the organization of the Agency in 1947.

Air America [deleted.]

JPRS [deleted.]

Interarmco [deleted.]

Southern Air Transport [deleted.]

Saturn Airways Inc., none.

Question. Is it true that the CIA or other intelligence components have secretly helped finance certain political parties in India? In any other countries? Please indicate the specific countries involved and the circumstances surrounding each example.

Answer. [Deleted.]

Question. Has the CIA or the intelligence community ever been involved in commodity manipulation on the world or domestic markets? Please explain.

Answer. [Deleted.]

Question. As Director of Central Intelligence, will you have full responsibility for the budget of the entire intelligence community? Can you control the defense components as DDI?

Answer. The DCI does not have full responsibility for the budget of the entire intelligence community. His responsibility, stemming primarily from the Presidential Directive of 5 November 1971, is to recommend to the President through the Office of Management and Budget the general level and composition of the budget and the appropriate distribution of resources among the different programs. He does not "control" the defense intelligence community. Through a variety of mechanisms and authorities, however, he can exercise leadership with respect to it in the manner directed by the President.

Question. Do you report directly to the President? How frequently?

Answer. The Director of Central Intelligence does report directly to the President as frequently as required.

Question. Can the 40 committee or its equivalent direct you to carry out programs without your consent?

Answer. No, the DCI can appeal to the President.

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Question. What is the present voting and non-voting composition of the United States Intelligence Board?

Answer. The United States Intelligence Board is an advisory Board to the Director of Central Intelligence and thus there is no formal voting procedure although dissenting views will normally be reported.

The current membership is:—*Chairman*. Director of Central Intelligence.

Members: CIA, represented by Deputy Director of Central Intelligence, Director, NSA. AEC, represented by Assistant General Manager for National Security Director, DIA. Treasury, represented by Special Assistant to the Secretary. State, represented by the Director of Intelligence and Research. FBI, Assistant to the Director.

Observers: Army—Assistant Chief of Staff/Intelligence. Navy—Director of Intelligence. Air Force—Assistant Chief of Staff/Intelligence.

Question. What is the status of PFIAB?

Answer. The Board was established under Executive Order 11460 of 20 March 1969. It advises the President on various activities making up the overall national intelligence effort, and conducts continual reviews and assessments of activities of the intelligence community. It reports to the President with recommendations to achieve increased effectiveness in the foreign intelligence effort.

The Board is active and the membership is: George W. Anderson, Chairman, Former Chief of Naval Operations. ~~William O. Baker~~, Vice President, Research, Bell Telephone Laboratories, Inc. Leon Cherne, Executive Director, Research Institute of America. John B. Connally, Former Governor of Texas. John S. Foster, Director of Defense Research and Engineering, Department of Defense. Robert W. Galvin, Chairman of Board, Motorola, Inc. Gordon Gray, Former Special Assistant to the President for National Security Affairs. Edwin H. Land, President, Polaroid Corporation. Clare Booth Luce, Former Congresswoman from Connecticut and Former Ambassador to Italy. Nelson A. Rockefeller, Governor of New York. ~~Dr. Edward Teller~~, ~~Wheaton B. Byers~~, Executive Secretary.

Question. Where are CIA's logistic warehouses located world-wide?

Answer. Logistics Facilities in U.S. [Deleted.] Logistics Facilities Overseas. [Deleted.]

Question. Could you provide the committee with a list of US companies presently under contract to the CIA or other intelligence components?

Answer. CIA maintains lists of companies with which it has contracts. A careful examination would be required to insure that such a list is completely accurate. With respect to other intelligence components we do not have immediate access to this information which is handled by the Department of Defense and the Department of State.

Question. Does the CIA object to the practice of placing FBI personnel in foreign embassies?

Answer. No.

Question. Is there an unwritten rule that any in-house Director must come from the clandestine services? Is there any reason why a future Director could not come from the DD/I?

Answer. No.

Question. What is the current CIA recruitment program?

Answer. The CIA Recruitment Division consists of 22 Recruitment Officers. Ten of these officers are located throughout the United States. Portland, Oreg., Los Angeles, Calif., Austin, Tex., Denver, Colo., St. Paul, Minn., Chicago, Ill., Kansas City, Kans. (clerical), Pittsburgh, Pa. (clerical), New York City, N.Y., Boston, Mass. (clerical).

The remaining 12 officers consist of two who direct and manage the Division, three who staff the Washington Recruitment Office to interview walk-in's and job inquiries in the Metropolitan area, and six who are specialized recruiters and are headquartered in Rosslyn, Virginia. Approximately 12 of the total of 22 are presently involved in recruitment of professionals.

The Agency's recruitment effort is year-round and nation-wide. Our Career Trainee, Co-op, and Summer Intern programs are the primary avenues through which our young officers enter the Agency. We employ [deleted] Career Trainees

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per year, [deleted] Summer Interns per year, and average [deleted] Co-op employees in that particular program.

In addition to the above, we employ area specialists, linguists, physical science, engineering, and economics majors. These are but a few of the disciplines we seek.

During the past five years, our average number of new professional employees has been approximately [deleted] per year. This represents about a one to eight ratio for all applications received and individuals interviewed.

Our clerical recruitment is numerically larger than our professional recruitment. Six of the 22 Recruitment Officers specialize in clerical recruitment and the others devote as much of their time as possible to this effort. Our 5-year average employment of clericals amounts to approximately [deleted] per year.

Question. Has the CIA recruitment program been adequate quantitatively and qualitatively?

Answer. During the past five years, the Agency has been reducing in size and tightening its manpower belt each year. At the beginning of fiscal year 1969, we had slightly more than [deleted] employees on duty. Today, we have slightly more than [deleted] on duty.

The combination of our desire to reduce manpower and a generally favorable labor market has enabled us to maintain a continuing supply of new officers for the Agency. We have, in fact, reduced our Recruitment staff from 27 officers to its present 22.

Concurrent with our over-all reduction, we have necessarily become more selective in our recruitment, and with the increase in technology, we find ourselves in competition with engineering, computer, and aerospace industries.

Although pressures to produce are greater and programs must constantly be evaluated for relevance and productivity, the adequacy of our recruitment program is best demonstrated by the fact that we are still able to meet most requirements levied on us, and the fact that for every one professional who enters on duty there were seven or eight who either applied for one of our jobs or whom we sought out and considered for one of our jobs.

Question. What is the attrition rate in CIA?

Answer. For the fiscal year just past, our overall attrition rate was 14.0%. Our professional attrition rate was 11.84% and our clerical attrition rate was 19.58%.

FY 1973 was a year during which the Agency underwent a fairly major reduction in force. Because approximately [deleted] employees were so separated, our overall and professional attrition rates were higher than normal. Total separations for all reasons in FY 1973 were [deleted].

Question. Is there any reason why the excellent analytical skills of the CIA could not be used more publicly?

Answer. Where consideration of classification and propriety permits, we encourage our people to participate in professional meetings, publish in professional journals, and turn out unclassified material.

Question. Would you object to DD/I personnel testifying before Congress on a regular basis much like Department of State experts?

Answer. Because of the peculiar requirements of intelligence, such testimony would have to be coordinated, but I can envisage many situations in which it would be quite appropriate.

Senator SYMINGTON. I am glad that Senator Kennedy came, but it is the responsibility of the committee, and therefore this is all still executive session.

Senator KENNEDY. And may I express my warm appreciation to the chairman and the members of the committee for extending me this courtesy, and to thank Mr. Colby for responding to the questions and taking the time and being as patient as he has been.

[Whereupon, at 6:15 p.m., the committee adjourned.]

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